

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, January 11, 2012

DOCKET NO.	DESCRIPTION	PRESENTER
<u>16-0301-1003</u>	Rules Relating to Eligibility for Health Care Assistance for Families and Children - Allowing electronic and telephonic signatures (Pending).	Erica Feider
<u>16-0303-1001</u>	Rules Relating to Child Support Services - Allowing electronic and telephonic signatures (Pending).	Erica Feider
<u>16-0304-1004</u>	Rules Relating to Food Stamp Program in Idaho - Allowing electronic and telephonic signatures (Pending).	Erica Feider
<u>16-0305-1003</u>	Rules Relating to Eligibility for Aid to the Aged, Blind and Disabled - Allowing electronic and telephonic signatures (Pending).	Erica Feider
<u>16-0308-1002</u>	Rules Relating to Temporary Assistance for Families in Idaho (TAFI) - Allowing electronic and telephonic signatures (Pending).	Erica Feider
<u>16-0612-1003</u>	Rules Relating to Idaho Child Care Program (ICCP) - Allowing electronic and telephonic signatures (Pending)	Erica Feider
<u>16-0301-1101</u>	Rules Relating to Eligibility for Health Care Assistance for Families and Children - Adding a self-employment standard deduction for allowable expenses and excluding veteran's educational payments (Pending).	Shannon Epperley
<u>16-0305-1102</u>	Rules Relating to Eligibility for Aid to the Aged, Blind and Disabled (AABD) - Adding a self-employment standard deduction to allowable expenses and excluding veteran's educational payments (Pending).	Shannon Epperley
<u>16-0414-1101</u>	Rules Relating to Low Income Home Energy Assistance Program (LIHEAP) - Aligning with the Food Stamp and Supplemental Security Income eligibility requirements using the Federal Poverty Guidelines at 150%, adding definitions and enforcement remedies (Pending).	Genie Sue Weppner

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge

Vice Chairman Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken

Room: WW48

Phone: (208) 332-1319

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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, January 11, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:00 P.M. She welcomed guests, welcomed back the Committee Secretary, Lois Bencken, and introduced Senate Page, Abigail Mocettini, Senate Intern, Todd Raines, and Assistant Secretary, Janet Drake. **Chairman Lodge** asked the Committee Secretary to take a silent Roll Call. She stated that the Committee will begin the rules review and passed the gavel to **Vice Chairman Broadsword**.

DOCKET NO. 16-0301-1003 **Rules Relating to Eligibility for Health Care Assistance for Families and Children (Pending).** **Erica Feider**, Program Specialist with the Department of Health and Welfare, stated the Department has adopted rules to allow electronic and telephonic signatures to improve access to services, increase productivity, and better utilize technology and other solutions to connect customers with services. **Ms. Feider** requested the Committee approve **Docket No. 16-0301-1003**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (see Attachment #1).

Senator Schmidt asked how a telephonic signature would work? **Ms. Feider** advised a telephone interview with the customer would authenticate identification.

MOTION: **Senator Schmidt** moved, seconded by **Senator Smyser** that the Committee adopt **Docket No 16-0301-1003**. The motion carried by **voice-vote**.

DOCKET NO 16-0303-1001 **Rules Relating to Child Support Services (Pending).** **Ms. Feider**, stated the Department has adopted rules to allow electronic and telephonic signatures to improve access to services, increase productivity, and better utilize technology and other solutions to connect customers with services. **Ms. Feider** requested that the Committee approve **Docket 16-0303-1001**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2 through #6).

Senator Symser noted that **Docket 16-0304-1004, 16-0305-1003, 16-0308-1002, and 16-0612-1003** contain changes identical to **Docket No. 16-0303-1001**, and inquired whether **Vice Chairman Broadsword** would entertain a motion to adopt all of these dockets together. **Vice Chairman Broadsword** agreed that would be expedient..

MOTION: **Senator Smyser** moved, seconded by **Senator Heider**, that the Committee adopt **Docket No. 16-0303-1001, 16-0304-1004, 16-0305-1003, 16-0308-1002, and 16-0612-1003**. The motion carried by **voice-vote**.

**DOCKET NO
16-0301-1101**

Rules Relating to Eligibility for Health Care Assistance for Families and Children (Pending). Shannon Epperley, Program Manager, Medicaid Eligibility, with the Department of Health and Welfare, stated the Department is aligning the Eligibility for Aid to the Aged, Blind, and Disabled (AABD) rules with other Department eligibility assistance program rules regarding business processes.

The first change would add the option of using a 50 percent deduction for self-employment expenses when calculating net self-employment income. This proposed change would align the rule language with that of the state plan and the Medicaid rules with those of other benefit programs. The second change would specifically list Veteran's Education Benefits among the types of educational income that are excluded from countable income for Medicaid. This will help ensure that veterans who are pursuing higher education are not incorrectly denied eligibility due to Educational Benefit payments. **Ms. Epperley** requested that the Committee approve **Docket No. 16-0301-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #7).

Senator Bock inquired if these changes would actually effect any operational changes, and if it is correct that under this rule someone applying for benefits would be treated the same way as they have been treated in the past. **Ms. Epperley** responded that this rule change would not result in any operational changes inasmuch as the 50 percent deduction for self-employment expenses result is already an allowable option in the State Plan and veteran's benefits are not currently being excluded from countable income. She added that someone applying for benefits would be treated the same way under this rule as they would have been treated in the past. **Senator Vick** asked if this rule would increase payments or allow more people to be eligible. **Ms. Epperley** indicated it would not, and that it will provide clarification for staff and the public.

MOTION: **Senator Schmidt** moved, seconded by **Chairman Lodge**, that the Committee adopt **Docket No. 16-0301-1101**. The motion carried by **voice-vote**.

**DOCKET NO
16-0305-1102**

Rules Relating to Eligibility for Aid to the Aged, Blind and Disabled (AABD) (Pending) **Ms. Epperley**, stated the Department is aligning the Eligibility for AABD rules with other Department eligibility assistance program rules regarding business processes. The Department proposes the following two changes: 1) Add the option of using a standard 50 percent deduction for expenses when calculating net self-employment income. and 2) Exclude Veterans Education Benefits from countable income for eligibility under the AABD. **Ms. Epperley** stated the language is the same as **Docket No. 16-0301-1101**, and requested that the Committee approve **Docket No. 16-0305-1102**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Community Secretary (see Attachment #8).

MOTION: **Senator Heider** moved, seconded by **Senator Bock**, that the Committee adopt **Docket No. 16-0305-1102**. The motion carried by **voice-vote**.

**DOCKET NO
16-0414-1101**

Rules Relating to Low Income Home Energy Assistance Program (LIHEAP) (Pending). **Genie Sue Weppner** stated the Department is aligning the LIHEA rules with other Department eligibility assistance program rules. The Department proposes the following three changes: 1) Change the LIHEAP income limit from being based on 60 percent of Idaho Median Income to 150 percent of Federal Poverty level, (FPL). This change will align the program with the Department other benefits program which are based on FPL.; 2) Align Idaho rule with federal statute by including households that receive Food Stamps and SSI as eligible for LIHEAP; and 3) Enhance the section in Idaho LIHEAP rule for dealing with vendor fraud. **Ms. Weppner** requested that the Committee approve **Docket No. 16-0414-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #9)

Senator Vick asked what the difference would be between 60 percent of the Median Income and 150 percent of the FPL. **Ms. Weppner** advised that 60 percent of Median Income is averaging about \$36,000 per household, while 150 percent of FPL is averaging about \$33,000 per household and this rule change is in line with less federal funding. **Senator Bock** noted this rule contains substantial additions related to fraud, and asked if this language was drafted by the Department or by federal fraud investigators. **Ms. Weppner** stated that the fraud language was developed by the Department's fraud unit. In response to questions by **Senator Darrington**, **Ms. Weppner** advised that if a fraud is suspected it would first be reviewed by the Department's fraud investigators, and if criminal action is found, it would be turned over to the federal fraud unit. She added that fraud has not been a problem in Idaho and this language is prompted by rules in other states. **Senator Schmidt** asked what the amount of funding is for this program. **Ms. Weppner** indicated it was approximately \$26 million in 2011 and would be less this year. The program served 52,000 households last year. **Senator Heider** asked if fraud by one utility vendor would terminate the vendor status of all utility vendors, expressing concern that this might affect large vendors. **Ms. Weppner** stated that she could not answer that question but indicated that it would be highly unlikely that a large utility would be charged with fraud and that this rule is intended to eliminate fraud by small vendors, such as wood cutters and pellet vendors. **Senator Bock** asked if this program is administered by local community action agencies and **Ms. Weppner** responded it is.

MOTION:

Senator Schmidt moved, seconded by **Chairman Lodge**, that the Committee adopt **Docket No. 16-0414-1101**. The motion carried by **voice-vote**.

**DOCKET NO
16-0612-1201**

Rules Relating to Idaho Child Care Program (ICCP) (Pending). **Ms. Weppner**, stated the Department is aligning the Idaho Child Care Program rules with other Department eligibility assistance program rules regarding business processes. These three proposed changes streamline and improve the outcomes for individuals in need of assistance by defining excluded income, amending how activity hours are calculated for part-time or full-time assistance, and amending when and how changes are to be reported. The first change is to align ICCP rules with other critical work support programs such as Food Stamps and Medicaid. The second change will support all families who are actively engaged in work and self-sufficiency activities. The third change would increase the health and safety of children supported by ICCP subsidies. **Ms. Weppner** requested the Committee approve **Docket No. 16-0612-1201**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #10).

Senator Schmidt asked what the budget is for this program? **Ms. Weppner** stated it averaged around \$24 Million and this year it could be \$33 Million. **Chairman Lodge** asked if the 40 months limit of post-secondary education is consecutive or cumulative? **Ms. Weppner** states it is cumulative. **Senator Bock** asked what the funding mechanisms are for this program. **Ms. Weppner** advised this program is funded by a federal block grant and the department has up to three years to spend the funds. **Senator Bock** asked what happens if the grant is not spent down? **Ms. Weppner** assured that the fund will be spent; and if there are funds leftover, then the state would return the funds.

MOTION:

Senator Symser moved, seconded by **Senator Bock**, that the Committee adopt **Docket No 16-0612-1201**. The motion carried by **voice-vote**.

ADJOURN: **Vice Chairman Broadsword** returned the gavel to **Chairman Lodge**. **Chairman Lodge** thanked the visitors and complimented **Vice Chairman Broadsword**, and the Committee members for an efficient rules reviews. There being no further business to come before the Committee, the meeting was adjourned at 3:35 P.M.

Senator Lodge
Chairman

Lois Bencken
Secretary

Janet Drake
Assistant Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, January 12, 2012

DOCKET NO.	DESCRIPTION	PRESENTER
16-0506-1101	Rules Relating to Criminal History and Background Checks - Clarifying the process for receiving and accessing an applicant's criminal history check records (Pending).	Steve Bellomy
16-0504-1101	Rules Relating to The Idaho Council and Domestic Violence and Victim Assistance Grant Funding - Prohibiting conjoint treatment (couples counseling) as an alternative intervention (Pending).	Sally Alvarado
16-0304-1101	Rules Relating to Food Stamp Program in Idaho - Allowing households to conduct business with the Department electronically; streamlining process for determining student eligibility; adding Job Search Assistance Program exemption (Pending).	Malinda Jones
16-0308-1101	Rules Relating to Temporary Assistance for Families in Idaho - standardizing household composition, income, resources and application time frames (Pending).	Rosie Andueza
16-0601-1101	Rules Relating to Child and Family Services - Streamlining notice to tribes regarding children subject to the federal Indian Child Welfare Act (Pending).	Kathy Morris
16-0601-1102	Rules Relating to Child and Family Services - Mandating Department oversight of the certified adoption professional program and specifying the fees charged for review of the program's work product (Pending Fee).	Stephanie Miller
16-0602-1101	Rules Relating to Standards for Child Care Licensing - Meeting statutory requirements for daycare licensing effective July 1, 2011 (Pending Fee).	Valerie Burgess

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge	Sen Vick
Vice Chairman Broadsword	Sen Nuxoll
Sen Darrington	Sen Bock
Sen Smyser	Sen Schmidt
Sen Heider	

COMMITTEE SECRETARY

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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, January 12, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:10 p.m. and welcomed guests, noting that the delay in starting the meeting was due to an extended meeting of the Commerce & Human Resources Committee. She passed the gavel to **Vice Chairman Broadsword** to begin rules review.

DOCKET NO. 16-0506-1101 **Rules relating to Criminal History and Background Checks (Pending): Steve Bellomy**, Bureau Chief of Audits and Investigations for the Department of Health and Welfare (Department), advised that the Criminal History Unit conducts background checks on individuals who provide services to children and vulnerable adults. He stated the primary purpose for this rule change is to define how manslaughter convictions should be handled.

Mr. Bellomy reminded the Committee that last year it was brought to the Department's attention that some citizens fail the background check because of a vehicular manslaughter conviction as a result of a driving accident many years ago. This rule change proposes a five-year disqualification when the conviction was for Vehicular Manslaughter with commission of an unlawful act not amounting to a felony and without gross negligence. He stated that it is the Department's belief that this rule change strikes a fair balance between protecting children and vulnerable adults and maintaining individual rights. He requested that the Committee approve **Docket No. 16-0506-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Vice Chairman Broadsword expressed appreciation to the Department for addressing this fairness issue. **Senator Nuxoll** directed **Mr. Bellomy's** attention to page 436, and inquired what the connection is with Emergency Medical Services (EMS). **Mr. Bellomy** advised that last year the Department did not include this rule as part of the reference for EMS background checks and this is being corrected with the additional language in paragraph (9).

MOTION: **Senator Bock** moved, seconded by **Senator Nuxoll**, to adopt **Docket No. 16-0506-1101**. The motion carried by **voice vote**.

DOCKET NO. 16-0504-1101 **Rules Relating to the Idaho Council on Domestic Violence and Victim Assistance Grant Funding (Pending): Sally Alvarado**, Grants/Contracts Officer, Idaho Council on Domestic Violence and Victim Assistance, advised that in accordance with input from stakeholders and legislative intent, Section I.B.4. of the document entitled "Minimum standards for the Domestic Violence Offender Intervention Programs" is being revised so as to prohibit conjoint treatment (couples counseling) as an alternative intervention. She requested that the Committee approve **Docket No. 16-0504-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

Vice Chairman Broadsword thanked **Ms. Alvarado** for her work with the public on this matter. **Senator Darrington** asked if the document incorporated by reference in this rule was written by the Idaho Council on Domestic Violence or by the national organization. **Ms. Alvarado** responded that the work was done by the Idaho Council.

MOTION: **Chairman Lodge** moved, seconded by **Senator Heider**, to adopt **Docket No. 16-0504-1101**. The motion carried by **voice vote**.

DOCKET NO. 16-0304-1101 **Rules Relating to Food Stamp Program in Idaho (Pending): Malinda Jones**, Food Stamps Program Specialist, Division of Welfare, Department of Health & Welfare (Department), advised that changes in this docket are being made in order to support the Department's continuing efforts to "do more with less." Changes include: 1) Waiving the interview requirement for the 6 month recertification; 2) Allowing the Department to notify recipients via email and other technology-based methods; 3) Changing process of computing work hours for post secondary students to 80 hours per month rather than 20 hours per week; 4) Exempting pregnant women from participating in the work and training program while in the third trimester of pregnancy; 5) Prohibiting children from receiving a caretaker relative cash assistance grant at the same time they are receiving food stamps in a different household, and 6) Ensuring that Idaho is in compliance with federal food stamp regulations. **Ms. Jones** requested that the Committee approve **Docket No. 16-0304-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

Senator Smyser asked if there are any statistics to support the exemption for pregnant women from participating in the work and training program. **Ms. Jones** advised she did not have statistics, but added that women in the third trimester of pregnancy are difficult to place in work environments. **Senator Nuxoll** inquired if the federal program requires recertification every 12 months. **Ms. Jones** advised that it does and this will align Idaho with the federal rule. **Senator Nuxoll** asked what the eligibility requirements are for a student to receive food stamps and if the 20 hours per week work requirement is in the private sector or through the Department. **Ms. Jones** stated that there are several requirements for eligibility, this work requirement being one of them, and that the work would be in the private sector. **Senator Nuxoll** noted that she has received reports that students are taking advantage of the system and asked what the increase in students receiving food stamps has been. **Vice Chairman Broadsword** requested that **Ms. Jones** direct the Committee to where the eligibility requirements are in this rule. **Ms. Jones** advised that the requirements are not fully listed in this rule, but offered to send the appropriate rule to **Senator Nuxoll**.

Vice Chairman Broadsword asked how the Department would address a situation where one parent has custody on a limited basis and gets food stamps, while the children are actually living with grandparents or another parent and the kids are going hungry. **Ms. Jones** indicated that situation sometimes happens in cases of joint custody where both parents share the children. She advised everything is looked at on a case by case basis and it is sometimes a difficult call; but in a situation where the parent has custody only one weekend a month, it is obvious that others have the burden of support for that child. **Vice Chairman Broadsword** expressed appreciation that the Department is looking at this and hopefully will address some of those issues. **Senator Vick** noted income excluded by federal law is excluded for food stamp benefits and asked for examples of what that includes. **Ms. Jones** advised that federal law excludes some types of Indian money,

Americorps income, and other monies of that type. **Vice Chairman Broadword** asked that she forward a list of excluded income to the committee members. **Senator Heider** asked what percentage or how many people in Idaho are on the food stamp program. **Ms. Jones** advised that she did not have the percentage of increase over the last year, but for the month of December 2011, the number of participants was 237,364 which included 102,844 households, and as of November 2011 there were 10,902 individual students participating in the food stamp program.

MOTION: **Senator Heider** moved, seconded by **Senator Darrington**, that the Committee adopt **Docket No. 16-0304-1101**. The motion carried by **voice vote**.

16-0308-1101 Rules Relating to Temporary Assistance for Families in Idaho (TAFI) (Pending): **Rosie Andueza**, Program Manager, Division of Welfare, Department of Health and Welfare (Department), stated that the Department's Self-Reliance Programs have realized significant growth due to hard economic times. Idaho has succeeded in maintaining quality in all programs while experiencing staff reductions due to budget shortfalls. Changes are being requested in this docket in order to further advance efforts for quality improvement as well as to place more emphasis on family accountability. She advised that these changes in Idaho's TAFI's program rules will increase a family's accountability by including step parents in the household unit and thus the work program, and by collecting overpayments in all situations, not just those resulting from fraudulent activity by the family. The proposed resource limit change from \$2,000 to \$5,000 will result in bringing the TAFI program resource rules in line with many of the other programs administered by the Department further advancing the Department's ability to gain efficiency through streamlined policies, and electronic notification will allow the Department another vehicle for communicating with customers. **Ms. Andueza** requested that the Committee approve **Docket No. 16-0308-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #4).

Chairman Lodge asked how many cases the Department is able to contact electronically. **Ms. Andueza** responded that the Department does not yet have the automated capacity to notify customers via email and yet meet all federal requirements. This rule change will allow it to do so when the time comes. The Department does communicate via email with some participants, however there are very strict guidelines requiring notification in writing. **Vice Chairman Broadword** asked then if it is correct that email would not be the only notice that is given. **Ms. Andueza** responded, "No," and added that if email is not opened, a paper notice would automatically go in the mail. **Senator Heider** inquired how an overpayment happens. **Ms. Andueza** indicated the only instance she is aware of occurred during a system update and that in most instances the families voluntarily returned the overpayments .

MOTION: **Senator Nuxoll** moved, seconded by **Senator Heider**, that the Committee adopt Docket No. 16-0308-1101. The motion carried by **voice vote**..

16-0601-1101 Rules Relating to Child and Family Services (Pending): **Kathy Morris**, Program Specialist, Child and Family Services, Department of Health & Welfare (Department), stated The Indian Child Welfare Act was passed by Congress in 1978 to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum federal standards for the removal of Indian children from their families and the placement of these children in foster or adoptive homes which will reflect the unique values of Indian Culture. These rules refer only to the removal of Indian children living off reservation. She noted that this rule change removes errors, inconsistencies, and redundancies from the current chapter of rules and streamlines the process

for notice of pending proceedings when a child's tribe is known or unknown. **Ms. Morris** requested that the Committee approve **Docket No. 16-0601-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #5).

Vice Chairman Broadsword asked if the tribes in Idaho were contacted regarding this rule and have they given their approval. **Ms. Morris** indicated they were contacted through their advisory committees.

MOTION: **Senator Smyser** moved, seconded by **Senator Nuxoll**, that the Committee adopt **Docket No. 16-0601-1101**. The motion carried by **voice vote**.

16-0601-1102 Rules Related to Child and Family Services (Pending Fee): Stephanie Miller, Adoption Program Specialist, Division of Family and Community Services, Department of Health and Welfare (Department), advised that families in Idaho must have a home study prior to completing an adoption. Idaho statute allows for individual practitioners called Certified Adoption Professionals to perform these home studies. The statute also requires the Department provide oversight of Certified Adoption Professionals.

She advised that these proposed rule changes are the result of a group of stakeholders including private adoption agencies, Certified Adoption Professionals and Department employees collaborating to identify potential improvements to the program. The changes include: 1) increased requirements for certification as an adoption professional; 2) clarification of the minimum standards for service; 3) specification of consequences for failing to provide the minimum standards for services; 4) requirement for Certified Adoption Professionals to be covered by malpractice insurance; 5) specification of the responsibilities of the Department and the Certified Adoption Professional to one another; and 6) implementation of an application and certification fee for Certified Adoption Professionals which will be used to offset the expense of providing the increased level of supervision necessary to support the program. **Ms. Miller** requested that the Committee approve **Docket No. 16-0601-1102**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #6).

Vice Chairman Broadsword expressed appreciation to the Department for working with the Certified Adoption Professionals on these rule changes. **Senator Nuxoll** requested a summary of the changes in this rule. **Ms. Miller** advised that regarding Certification the rule outlines more clearly the requirements of prerequisite experience; requires that the applicant be a licensed social worker; and that malpractice insurance is maintained. The certification period is also being changed from four years to two years in order for the Department to provide better guidance and supervision. **Vice Chairman Broadsword** asked if the judicial system is in agreement with this rule. **Ms. Miller** stated that there continue to be complaints about the quality of work coming from some Certified Adoption Professionals and that these rules are set forth to try and address the concerns. **Senator Darrington** asked if Certified Adoption Professionals are barred from handling international adoptions. **Ms. Miller** responded that is correct. **Senator Darrington** further noted that a lot of people are going through international adoptions and asked what the reason for that might be, and is there a duty to register with the Department of Vital Statistics when there is an international adoption. **Ms. Miller** indicated one reason is that some people are drawn by a desire to help children in less fortunate countries, another is younger children are easier to adopt than in the United States, and some choose to go to other countries because they believe children in other countries may be less impacted by drug and alcohol exposure in the womb. She did not know if international adoptions are registered with the Department of Vital Statistics, but offered to get that information and forward it.

MOTION: **Senator Darrington** moved, seconded by **Chairman Lodge**, that the Committee adopt **Docket No. 16-0601-1102**. The motion carried by **voice vote**.

16-0602-1101 **Rules Relating to Standards for Child Care Licensing (Pending Fee): Valerie Burgess**, Program Supervisor, Division of Family and Community Services, Department of Health & Welfare (Department), advised that this rule change is being made to meet statutory requirements for day care licensing. These changes were effective as temporary rules July 1, 2011, and impact three significant areas: child/staff ratios; licensing fees; and local options for licensure. The change to child/staff ratios provides clarity on how children are to be counted for licensure and adopts a point system to support child/staff ratios. She reviewed the licensing fee scale and advised that cities or counties who choose local options for regulation and licensing of day care services now have the option to count or not count children of a provider in meeting requirements for licensure. **Ms. Burgess** requested that the Committee approve **Docket No 16-0602-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #7).

Senator Heider noted that public meetings were held in four different locations and no one attended. He asked how the rule is working since a lot of time was spent last year on this issue. **Ms. Burgess** responded that although the Department had anticipated more interaction, no one attended the meetings and no comments were submitted. She indicated the rules are working well. **Senator Schmidt** asked why points for attendance was not considered in setting fees. **Ms. Burgess** advised that the fee is set according to the number of children for the facility operated and the point system is used for child/staff ratio limitations. **Vice Chairman Broadsword** noted she had substantially less email on this issue this year and thanked the Department for their hard work in reaching a resolution.

MOTION: **Senator Heider** moved, seconded by **Senator Bock**, that the Committee adopt **Docket No. 16-0602-1101**. The motion carried by **voice vote**.

ADJOURNMENT: **Vice Chairman Broadsword** returned the gavel to **Chairman Lodge**, who thanked the presenters for an excellent job and adjourned the meeting at 4:07 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, January 16, 2012

SUBJECT	DESCRIPTION	PRESENTER
16-0309-1103	Rules Relating to Medicaid Basic Plan Benefits - Limiting adult benefits for dental services (Pending).	Matt Wimmer
16-0310-1103	Rules Relating to Medicaid Enhanced Plan Benefits - Limiting adult benefits for dental services (Pending).	Matt Wimmer
16-0309-1106	Rules Relating to Medicaid Basic Plan Benefits - Providing for the administration and policies needed to reimburse providers for Certified Professional Midwife Services (Pending).	Matt Wimmer
16-0309-1107	Rules Relating to Medicaid Basic Plan Benefits - Limiting benefits for physical therapy, speech therapy and occupational therapy services (Pending).	Matt Wimmer
16-0309-1201	Rules Relating to Medicaid Basic Plan Benefits - Allowing coverage of smoking cessation products for children and pregnant women (Temporary).	Matt Wimmer
16-0318-1101	Rules Relating to Medicaid Cost-Sharing - Defining when copayments can be charged for participants accessing health care services (Pending Fee).	David Simnitt

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge

Vice Chairman Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

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Room: WW48

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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, January 16, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:00 P.M., and asked the Committee Secretary to take Roll Call. She stated the Committee will begin the rules review and passed the gavel to **Vice Chairman Broadsword**.

DOCKET NO. 16-0309-1103 **Rules Relating to Medicaid Basic Plan Benefits (Pending).** **Matt Wimmer**, Bureau Chief, Department of Health and Welfare, stated the primary purpose of this rule is to define benefits for dental services in accordance with legislative direction in **H 260**, limiting dental benefits for non-pregnant adults to emergency benefits only. He stated the effective date of this rule change is July 1, 2011. **Mr. Wimmer** requested the Committee approve **Docket No. 16-0309-1103**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #1).

Senator Darrington noted the retroactive date of the rule and asked if this rule went into effect on an emergency basis. **Mr. Wimmer** stated that these rule changes implement statutory changes adopted by the 2011 Legislature in **H 260**, effective July 1, 2011. **Senator Bock** asked what the substance of the conversations with the providers was, and if there were any objections, how those objections were resolved. He further asked for a definition of emergency procedures. **Mr. Wimmer** responded that the Idaho State Dental Association understood the situation that the Legislature was in last year, and their concern was that the benefit package made sense within those limits and was well defined so the emergency benefits could be collected. He stated that emergency benefits include such things as lancing abscesses, biopsies, tumors and supporting services such as evaluations and x-rays necessary for emergency care. It does not include dentures, fillings and teeth cleaning. **Vice Chairman Broadsword** noted that when **H 260** was adopted it was her impression that some of the changes were going to be implemented with temporary rules until the economy improved. **Mr. Wimmer** replied that in looking at **H 260** and the permanent changes to the statute in Idaho Code 56-255, the Department made these rule changes proposed rather than temporary. **Senator Schmidt** asked if there is a plan to track emergency services provided through Medicaid in emergency rooms. **Mr. Wimmer** advised that the Department is tracking emergency room use and hospitalizations with dental diagnosis codes. He advised he would forward this information by email to the Committee. In response to a question from **Senator Nuxoll**, **Mr. Wimmer** advised that all Idaho Medicaid beneficiaries obtain their dental services through Idaho Smiles.

MOTION: **Senator Heider** moved, seconded by **Senator Darrington**, that the Committee adopt **Docket No. 16-0309-1103**. The motion carried by **voice vote**.

**DOCKET NO.
16-0310-1103**

Rules Relating to Medicaid Enhanced Plan Benefits (Pending). **Mr. Wimmer** stated the primary purpose of this rule is to limit dental benefits for non-pregnant adults to emergency benefits only. This change completes moving all Medicaid participants into dental managed care under the direction of the Department's existing contract. He further commented the language related to fee for service benefits is eliminated since all Medicaid dental benefits are now provided through a managed care arrangement. **Mr. Wimmer** requested the Committee approve **Docket 16-0310-1103**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #2).

Senator Nuxoll asked what the process is for choosing an insurance provider. **Mr. Wimmer** advised that the Idaho Dental Association selects the provider through an open and competitive bidding process. **Vice Chairman Broadsword** asked if a Request for Proposal was utilized for selection of the insurance provider. **Mr. Wimmer** replied, Yes.

MOTION:

Senator Nuxoll moved, seconded by **Senator Heider**, that the Committee adopt **Docket No. 16-0310-1103**. The motion carried by **voice vote**.

**DOCKET NO
16-0309-1106**

Rules Relating to Medicaid Basic Plan Benefits (Pending). **Mr. Wimmer** stated the primary purpose of this rule is to define procedures and requirements for certified professional midwives licensed by the Idaho Board of Midwifery to enroll as Medicaid health care providers, and receive a reimbursement for allowable services at a level 15 per cent less than that provided to physicians for similar services. **Mr. Wimmer** requested the Committee approve **Docket No. 16-0309-1106**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #3).

Senator Darrington inquired if the bill providing for licensing of midwives included a provision that they were eligible for Medicaid, or was that done by Department rule after the fact. **Vice Chairman Broadsword** advised the **H 165** adopted in 2011 directed the Department to do this. It was adopted last year as a stand-alone piece of legislation and was not the licensure bill. **Mr. Wimmer** confirmed that statement. He further advised that there had been no applications for midwifery certification under these provisions since January. **Senator Schmidt** noted licensed midwives have a limited scope of service, and asked if they can order certain tests such as ultrasound, and would that fall under the payment to the midwife or would it fall under a different payment program. **Mr. Wimmer** advised that licensed midwives can order ultra sound which he believes is covered under a separate payment. **Senator Nuxoll** noted the limit of six weeks follow up care, asking if that is a normal procedure with doctors as well. **Mr. Wimmer** advised it is within the scope of their licensing to provide follow up care up to six weeks.

MOTION:

Senator Symser moved, seconded by **Senator Nuxoll**, that the Committee adopt **Docket No. 16-0309-1106**. The motion carried by **voice vote**.

**DOCKET NO
16-0309-1107**

Rules Relating to Medicaid Basic Plan Benefits (Pending). Mr. Wimmer stated the primary purpose of this rule is to align physical, occupational, and speech therapy services with annual Medicaid caps. This change limits physical therapy and speech therapy combined to a cap based on Medicare limits, and also limits occupational therapy alone to Medicare caps. This change does allow for services in excess of the cap to be provided to participants under age 21 in keeping with federal requirements. It also allows for services in excess of the cap to be provided to adults under some circumstances when appropriate documentation is made available to Medicaid. Mr. Wimmer requested the Committee approve **Docket No. 16-0309-1107**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #4).

Senator Vick asked if there is a federal match with this program. Mr. Wimmer stated yes; it is 70/30.

MOTION:

Chairman Lodge moved, seconded by Senator Vick, that the Committee adopt **Docket No. 16-0309-1107**. The motion carried by **voice vote**.

**DOCKET NO
16-0309-1201**

Rules Relating to Medicaid Basic Plan Benefits (Temporary). Mr. Wimmer stated recent changes in federal laws and regulations governing state Medicaid programs require coverage of tobacco cessation products for pregnant women and children under age 21. This rule change aligns Idaho regulations with federal requirements. Mr. Wimmer requested the Committee approve **Docket 16-0309-1201**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #5).

Senator Vick asked for a definition of the difference between legend and non-legend tobacco cessation products. Mr. Wimmer deferred the question to Paul Leary, Administrator, Division of Medicaid, Department of Health and Welfare, who advised that a legend drug is a drug that requires a prescription and an over-the-counter drug would be a non-legend drug. Senator Nuxoll asked if there is any documentation on how well the tobacco cessation products work. Mr. Wimmer responded that there is evidence related to nicotine gum and nicotine patches but he would need to contact the pharmaceutical staff to obtain this information and will forward it.

MOTION:

Senator Schmidt moved, seconded by Senator Heider, that the Committee adopt **Docket No. 16-0309-1201**. The motion carried by **voice vote**.

**DOCKET NO
16-0318-1101**

Rules Relating to Medicaid Cost-Sharing (Pending Fee). David Simnitt, Deputy Administrator, Department of Health of Welfare, stated the 2011 Legislature through **H 260**, directed the Department to establish, within the federal limitations of Medicaid laws and regulations, enforceable cost sharing in the form of co-payments to increase the awareness and responsibility of Medicaid participants for the cost of their health care. Eligible participants are subject to a co-payment of \$3.65 for podiatry, optometry, and chiropractic office visits. Co-payments are also required for physical therapy, occupational therapy, speech therapy and doctor's office visits except when the visit is for preventative services, immunizations, family planning, or urgent care in an urgent care facility. Mr. Simnitt requested the Committee approve **Docket No. 16-0318-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #6).

Senator Schmidt asked how the public hearings went. **Mr. Simnitt** advised that the public hearings were not well attended and the Department heard from some providers that they were not planning to collect the copays, others indicated that they would. **Senator Schmidt** noted that one of the exemptions for the requirement of the copay is an urgent care facility and asked if that is part of the federal code. **Mr. Simnitt** responded that is not part of the federal requirements, but the Department wanted to encourage appropriate use of the urgent care center. **Senator Schmidt** noted there are instances where an office sees regularly scheduled patients and also has an attached urgent care facility, and a patient would be responsible for the copay if they scheduled an appointment, but not if they used the urgent care side of the office. **Mr. Simnitt** advised that the Department recognizes that as well; that all of these patients are involved with Healthy Connections physicians, and the Department will be monitoring to make sure that the coordination of care continues. If it sees this situation, it will take appropriate action. **Senator Bock** inquired what happens if the patient cannot pay the copay. **Mr. Simnitt** indicated it would be up to the physician's office to set policy on what they would do under those circumstances, whether they would go ahead and see the patient that day and bill the copay or whether they would waive the copay. He added that for participants that are subject to a copay that \$3.65 would be deducted from the reimbursement paid to the doctor.

MOTION: **Senator Darrington** moved, seconded by **Chairman Lodge**, that the Committee adopt **Docket No. 16-0318-1101**. The motion carried by **voice vote**.

ADJOURN: **Vice Chairman Broadsword** returned the gavel to **Chairman Lodge**. There being no further business to come before the Committee, the meeting was adjourned at 3:33 P.M.

Senator Lodge
Chairman

Lois Bencken
Secretary

Janet Drake
Assistant Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Tuesday, January 17, 2012

SUBJECT	DESCRIPTION	PRESENTER
RS20897	Relating to Senate Concurrent Resolution endorsing the Idaho Alzheimer's Planning Group's efforts to create a statewide plan.	Senator Joyce Broadsword, District 2
16-0309-1108	Rules Relating to Medicaid Basic Plan Benefits - Clarifying reimbursement policies when a third-party payor reimburses a provider for services (Pending).	Lisa Hettinger
16-0309-1101	Rules Relating to Medicaid Basic Plan Benefits - Regarding reimbursement to pharmacies (Temporary).	Sheila Pugatch
16-0309-1102	Rules Relating to Medicaid Basic Plan Benefits - Regarding hospital floor reimbursement percentage (Pending).	Sheila Pugatch
16-0310-1104	Rules Relating to Medicaid Enhanced Plan Benefits - Regarding nursing facilities and intermediate care facilities for people with intellectual disabilities (Pending).	Sheila Pugatch
16-0309-1104	Rules Relating to Medicaid Basic Plan Benefits - Regarding cost saving measures for services including: chiropractic, podiatry, mental health, audiology, and vision (Pending).	David Simnitt
16-0310-1105	Rules Relating to Medicaid Enhanced Plan Benefits - Continuing cost saving measures begun in SFY 2011 (Pending).	David Simnitt

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge
Vice Chairman Broadsword
Sen Darrington
Sen Smyser
Sen Heider

Sen Vick
Sen Nuxoll
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken
Room: WW48
Phone: (208) 332-1319
email: lbencken@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, January 17, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:05 p.m. and welcomed guests.

RS 20897 **Relating to Senate Concurrent Resolution Endorsing the Idaho Alzheimer's Planning Group's Efforts to Create a Statewide Plan. Vice Chairman Broadsword** stated that this resolution seeks to endorse the efforts of the Idaho Alzheimer's Planning Group to create a statewide plan to address the growing problem of Alzheimer's and other dementias that increasingly continue to affect citizens throughout Idaho. She advised that if the Committee agrees to print **RS 20897** it is her intention to come back before the Committee with a full hearing, presenting testimony to explain the need for this plan. She noted there are several co-sponsors on this resolution, including **Senator Schmidt**.

MOTION: **Senator Schmidt** moved, seconded by **Senator Smyser**, that **RS 20897** be sent to print. The motion carried by **voice vote**.

Senator Darrington reminded **Chairman Lodge** that when resolutions are printed they automatically go straight to the floor and, therefore, it will be necessary for her to request on the floor that the resolution be returned to the Committee.

GAVEL CHANGE: **Chairman Lodge** passed the gavel to **Vice Chairman Broadsword** to continue rules review.

DOCKET NO. 16-0309-1108 **Relating to Medicaid Basic Plan Benefits (Pending). Lisa Hettinger**, Bureau Chief, Division of Medicaid Financial Operations, Department of Health & Welfare (Department), stated this proposed rule aligns state rules with federal requirements. The amendments clarify the rules related to Medicaid's reimbursement policies to providers for non-Medicare coordination of benefits when a third party payer (insurance company) reimburses a provider for services, or when the Department determines that a third party liability exists. **Ms. Hettinger** requested that the Committee approve **Docket No. 16-0309-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Senator Schmidt asked if this rule applies to Medicaid benefits that would go to veterans for services provided by a Veteran's Home. **Ms. Hettinger** advised this would not apply to Veteran's Administration benefits.

MOTION: **Senator Bock** moved, seconded by **Senator Heider**, that the Committee approve **Docket No. 16-0309-1108**. The motion carried by **voice vote**.

**DOCKET NO.
16-0309-1101**

Relating to Medicaid Basic Plan Benefits (Temporary). **Sheila Pugatch**, Principal Financial Specialist, Division of Medicaid, Department of Health & Welfare, advised that the purpose of this rule, in accordance with 2011 legislative direction in H 260, is to change pharmacy reimbursement to the Average Actual Acquisition Cost (AAAC) by obtaining cost information through a pharmacy survey process. In addition the dispensing fee payment is changed from a single fee to a tiered fee structure. **Ms. Pugatch** requested that the Committee approve **Docket No. 16-0309-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

Vice Chairman Broadsword noted the rule indicates that if a pharmacy is nonresponsive to the periodic state cost surveys, it can be disenrolled. She asked if the Department has made sure that every pharmacy provider in the state is aware of that issue. **Ms. Pugatch** advised that the Department had covered that through an information release. **Senator Bock** questioned why this is a temporary rule as opposed to a pending rule. **Ms. Pugatch** advised that the rule was implemented after July 1, 2011, and because of timing issues the Department had to pursue a temporary rule. **Senator Heider** asked for an explanation of how pharmacies were reimbursed in the past and whether we were paying more or less before this rule. **Ms. Pugatch** indicated pharmacies were paid based on the average wholesale price minus 12 percent and that amount was more than it is under this rule. **Senator Darrington** asked what the difference is between a labeler and supplier. **Ms. Pugatch** advised that for the most part they are the same; the labeler is the manufacturer of the drug.

MOTION:

Chairman Lodge moved, seconded by **Senator Nuxoll**, that the Committee approve **Docket No. 16-0309-1101**. The motion carried by **voice vote**.

**DOCKET NO.
16-0309-1102**

Relating to Medicaid Basic Plan Benefits (Pending). **Ms. Pugatch** advised that H 260, passed by the 2011 Legislature, repealed, amended, and added statutes that are being referenced in these rules. Changes in effect regarding hospital floor reimbursement percentage and the reduction to outpatient hospital costs include: 1) reimburse most private hospitals at 100% of cost - private hospitals that do not have emergency rooms or are psychiatric hospitals will continue to be reimbursed at 91.7% of their costs; 2) reimburse critical access hospitals at 101% of costs; and 3) reimburse out-of-state hospitals at 87.1% of costs. **Ms. Pugatch** requested that the Committee approve **Docket No. 16-0309-1102**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

Senator Nuxoll asked why some hospitals are paid less. **Ms. Pugatch** explained that the private hospitals not having emergency rooms, such as psychiatric hospitals, and out-of-state hospitals do not participate in the Hospital Assessment Act, therefore their reimbursement cost is decreased.

MOTION:

Senator Schmidt moved, seconded by **Senator Heider**, that the Committee approve **Docket No. 16-0309-1102**. The motion carried by **voice vote**.

**DOCKET NO.
16-0310-1104**

Relating to Medicaid Enhanced Plan Benefits (Pending). **Ms. Pugatch** stated that rule changes in this Docket implement legislative intent language in H 260 passed by the 2011 Legislature regarding nursing facilities and intermediate care facilities for people with intellectual disabilities. This rule will: 1) continue the nursing home and intermediate care facility for persons with intellectual disabilities (ICF/ID) rate freeze; 2) remove the efficiency incentive payments to ICF/ID providers; and 3) clarify the definition for patient day for both a nursing facility as well as an ICF/ID and date of discharge as it relates to nursing facilities. The rule also requires cost survey data to be provided periodically by certain providers in order to establish reimbursement rates. **Ms. Pugatch** requested that the Committee approve **Docket No. 16-0310-1104**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #4).

Senator Schmidt asked how the requirement to provide the survey information had been received by the providers. **Ms. Pugatch** responded that the providers have asked when they will be surveyed and she has advised that on average it would be every five years. They have also inquired if they will be automatically disenrolled from the Medicaid program if they do not participate in the survey. They have been advised that the rule says the Department may disenroll a provider who does not participate, but there is no certainty that they will be disenrolled. **Senator Schmidt** then noted the language of the rule states if a provider refuses or fails to respond to the survey, the provider "can" be disenrolled as opposed to "will" be disenrolled. **Ms. Pugatch** indicated that is right.

TESTIMONY:

Robert Vande Merwe representing Idaho Health Care Association and Idaho Center for Assisted Living spoke **in opposition** to Sections 235 and 257 of **Docket 16-0310-1104**. He indicated a rate freeze has been in place for nursing facilities for the past three years, while costs are going up. A nursing home assessment for the last two years allowed backfill with federal funds, but those federal funds will not be available this year. He stated they are working with the Department to come up with a compromise to use federal funds to backfill for Fiscal Year (FY) 2012 and 2013.

Senator Heider asked if negotiations with the Department would take a long time or could be accomplished in a few days and what he would like the Committee to do at this point. **Mr. Vande Merwe** responded that he would like the Committee to reject the rule and bring it back after they find an assessment that will allow federal funds for backfill. He anticipates negotiation will take a few weeks, but should be accomplished during this session.

TESTIMONY:

Katherine Hansen, Executive Director of Community Partnerships of Idaho, representing Vocational Services of Idaho, spoke **in opposition** to **Docket No. 16-0310-1104** stating that her concern is that the rule is unclear related to the cost survey. She recognized the need to make sure the survey has a high degree of representation, but recommended that the Department return to the language that was in a temporary rule for this past year which requires the Department to do a five year study based on statistical representation as opposed to being mandatory.

Senator Darrington asked **Ms. Hansen** to specify the specific part of the rule she is addressing. **Ms. Hansen** advised her objection is to Section 706.04 and 706.05. related to Adult DD Waiver Services.

TESTIMONY: **Greg Dickerson**, Administrator, Human Supports of Idaho, spoke **in opposition** to **Docket No. 16-0310-1104**, Sections 119.03 and 140.09, related to cost survey. He advised these surveys take a great deal of training and time to properly complete. After the 2006 survey, proposed rates were set and several were found to be below what was necessary to meet provider costs. He stated the Department has failed to address the disparities with the Legislature or request budget increases necessary to meet financial needs of providers, and questioned why the providers should be required to go to the time and expense of attending to this empty process.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #5).

TESTIMONY: **Kelly Keele** representing Mental Health Providers Association of Idaho, spoke **in opposition** to **Docket No. 16-0310-1104** saying he concurs with the testimony of **Mr. Dickerson** and requested that the Committee reject Sections 119 and 140 of this Docket.

TESTIMONY: **Jason Lowry**, President, Idaho Association of Developmental Disability Agencies, spoke **in opposition** to **Docket 16-0310-1104**, Section 659.02 related to cost survey. He stated agreement with the Department conducting a survey every five years from a statistical appropriate number of provider association representatives in order to obtain cost data. He does not support the new rule which states the Department can disenroll Medicaid providers if they refuse or fail to respond to the survey, but does support transparency and collaboration with the Department. He requested the Department strike Section 659.02 from this Docket.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #6).

Vice Chairman Broadsword stated that she does not think the Department is planning to eliminate providers but they do need something that requires them to come to the table and talk. She asked **Mr. Lowry** how he would suggest they get the providers to provide the information. He replied he would request that the Department collaborate with the Association so they can help establish some ways to do that.

TESTIMONY: **Michael Wilson**, Secretary, Idaho Residential Supported Living Association, and a Masters Level Social Worker, spoke **in opposition** to **Docket 16-0310-1104**, Section 706.04 and 706.05. He indicated that although the Association supports a rate study, they cannot support the rule as written because it lacks clarity and promotes concern as to what the "Percentage" of the "target reimbursement rate" would be, does not address how data will be collected, and does not provide assurances that participation in the cost survey process will lead to outcomes. The Association would like to see a requirement that the Department submit the findings of the cost survey to the Legislature for review.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #7).

Vice Chairman Broadsword asked if his association members who have received training in how to complete the cost survey would be willing to go out and help other providers who have not been trained. **Mr. Wilson** indicated they had talked about this and would be willing to do so, but noted that the resources of provider agencies are just as strained as those of the Department at this point in time.

Vice Chairman Broadsword requested that **Ms. Pugatch** return to the podium to respond to questions of the Committee. She asked if for some reason this entire docket is rejected, would the temporary rule that had been in place continue to be valid or would the Department have to go to the expense of writing an entirely new rule. **Ms. Pugatch** deferred the question to **Ed Hawley**, State of Idaho, Department of Administration, Administrative Rules Division. **Mr. Hawley** indicated it would require the entire rule be rewritten.

Senator Bock asked if it is the Department's position that they have to promulgate this rule in order to effect some statutory obligation. **Ms. Pugatch** responded not to her knowledge. **Senator Bock** indicated he did not want to see the Department prejudiced in a way that is going to cause injuries to the people we are trying to serve, and asked what the Department would have to fall back on if the rule was to be repromulgated. **Ms. Pugatch** indicated there will be no rules in effect until new rules are promulgated. **Vice Chairman Broadsword** noted **Paul Leary**, Administrator, Division of Medicaid, Department of Health & Welfare, was present and asked if he would respond to **Senator Bock's** question. **Mr. Leary** indicated he feels the Department is on safe ground if rules are rejected at this point, as a lot of the changes are already in statute with H 260. He agreed that the Legislature should have the data collected from the cost survey as well as other information pertaining to providers and access.

The Committee discussed at length with **Mr. Leary** the fact that this is the third year in a row for cutbacks to the providers; the mandatory requirement for participation in the cost survey; that the Department needs to be able to obtain adequate cost analysis; although the Department has budget constraints, it still needs to ensure the financial health of good providers; whether the survey form could be reworked to make it simpler to complete; and whether the Department intends to disenroll providers over the next year who do not participate in the survey. **Mr. Leary** responded that the survey process had been jointly agreed upon with providers and training was provided. He further stated that the Department does need some leverage to get the providers to complete the survey, and that there are no resources in the budget over the next year to do a cost survey, so the language could be worked on.

Senator Vick asked if one of the providers would share with the Committee why they do not answer the survey. **Vice Chairman Broadsword** asked **Ms. Hansen** to respond to the question. **Ms. Hansen** advised that her organization provides employment services, mental health services, and developmental disabilities services and all of those require separate cost studies to determine the cost ratios, so her organization has to figure out what portion of administrative costs are spent in each service area and eliminate any administrative costs that are not reimbursable; this is very time consuming and complex. She advised her organization would like an opportunity to meet with the Department and perhaps a couple of Committee members prior to the rule being voted on and bring back a recommendation.

Senator Vick asked if it would be possible to delay the Committee's decision on this rule, giving the parties an opportunity to come to an agreement. **Vice Chairman Broadsword** asked the parties if they would be able to meet in the near future and received assurances they would. She announced that a **vote on Docket 16-0310-1104 would be delayed and rescheduled at a later date.**

Relating to Medicaid Basic Plan Benefits (Pending). **David Simnitt**, Deputy Administrator, Division of Medicaid, Department of Health & Welfare, advised that the 2011 Legislature, through H 260, provided specific direction on how to reduce health care costs in the Medicaid budget and improve the health care delivery system in Medicaid. He described for the Committee the directions of the Legislature and the actions taken by the Department to comply within the areas of: collateral contact; chiropractic benefits; podiatrist services; audiology benefits; vision services, mental health assessment coverage; and the Healthy Connections program. He stated that the benefit reductions in this docket were not easy to make and there is always risk involved in changing Medicaid coverage and policies. The Department is monitoring the impacts to ensure that participants' health and safety is protected and that there are not cost shifts to more expensive services as a result of these changes. **Mr. Simnitt** requested that the Committee approve **Docket No. 16-0309-1104**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #8).

Senator Darrington asked if everything in this rule is to comply with H 260. **Mr. Simnitt** responded that is correct. **Chairman Lodge** asked how the Department monitors the program and if the Committee could be provided with results of what has been discovered so far. **Mr. Simnitt** advised that he would provide more detail under the next Docket and that under this docket the Department worked closely with the associations to identify ways that it can make sure that proper benefits are in place and where there are chronic conditions that they are treated. **Senator Schmidt** noted the Healthy Connections plan allows an additional 50 cent increase per member for providers with extended coverage and asked if there has been a move to extended coverage in the community, and the volume per provider. **Mr. Simnitt** advised there are a lot of providers who were either already providing extended coverage or who have chosen to extend coverage to receive the 50 cent incentive payments. He stated he did not have an exact count but could get that information. He added that there are about 1,500 primary care providers that service about 25,000 Medicaid patients.

Senator Darrington asked if this is the rule that provides a 50 cent payback for physicians unless they maintain a 46 hour office week. **Mr. Simnitt** advised that this is the rule that contains that incentive payment for practices that provide 46 hours per week or more. **Senator Darrington** stated that this is not an incentive payment; it is a penalty, and asked if it was in accordance with and called for in H 260. **Mr. Simnitt** advised Healthy Connection providers were receiving \$3.50 per month for each Medicaid member and this reduction was part of a cost savings approach to reduce the amount of payments being made to Healthy Connection providers so **Senator Darrington** is right, if a provider is not able to or chooses not to extend hours he will have a cost decrease compared to the past. **Senator Darrington** indicated this is discriminatory against the solo practitioner who takes a lot of Medicaid patients. It is not reasonable to expect this type of practitioner to extend hours; it is a penalty. He further stated that H 260 does not specifically say we must do this. **Mr. Simnitt** indicated H 260 does give specific directions to provide a tiered payment methodology and gives specific directions to provide an incentive payment for extended hours but does not state an amount for that incentive payment.

Vice Chairman Broadsword recognized **Mr. Leary** who advised that H 701 was a Medicaid reform budget reduction in the 2010 session. At that time the Department switched to a tiered system and temporary rules were passed last year with this change in them. **Senator Darrington** again asked what the rationale for 46 hours is when it could be 40 hours and why the solo practitioner is penalized when the clinics are not. **Mr. Leary** advised that a group looked at what would be defined as extended hours. He stated **Senator Darrington** has a good point when looking at an independent practitioner versus a large practice. He stated this is a springboard as the Department moves into medical homes and is a structure that will be better utilized when we get into health homes with much better reimbursement for those physicians. He added the Department looks at all practices and participants but must set rules for the masses and there are always some that do not seem fair. **Vice Chairman Broadsword** commented that the underlying purpose is to save state money. **Mr. Leary** indicated that is correct. **Senator Darrington** commented that he can not support the rule because it is punitive in nature.

MOTION: **Senator Bock** moved, seconded by **Senator Darrington**, to reject **Docket No. 16-0309-1104**.

SUBSTITUTE MOTION: **Chairman Lodge** stated that the Department worked really hard on this legislation trying to work out ways to be as fair as possible, knowing that this was not going to cover every situation with independent providers and especially a doctor that will not be able to do the 46 hours. She suggested PA's might be able to help them extend those hours. She stated that it was important that the Committee approve this docket and made a substitute motion, seconded by **Senator Vick**, to approve **Docket No. 16-0309-1104**.

Senator Darrington spoke against the substitute motion stating he has seldom seen the lack of fairness to the extent of this. It is not reasonable to expect those single practitioners would have PA's. It is not common throughout the doctors' offices in his community.

Senator Lodge commented that Healthy Connections is an incentive to get our Medicaid people to go to a single provider and also maybe have some hours that would go beyond 8 to 5 so people could go in the evening time.

Senator Bock spoke against the substitute motion and for the original motion stating this rule is discriminatory. Its net effect is that there will be a certain segment of the population who will not receive services. He stated this is contrary to the mission of the Medicaid program and really undermines it.

VOTE SUBSTITUTE MOTION **Vice Chairman Broadsword** called for a Roll Call Vote on the substitute motion to approve **Docket No. 16-0309-1104**. The results of the vote were: **Chairman Lodge**, Aye; **Vice Chairman Broadsword**, Aye; **Senator Darrington**, Nay; **Senator Heider**, Nay; **Senator Vick**, Aye; **Senator Nuxoll**, Aye; **Senator Bock**, Nay; **Senator Schmidt**, Nay. The vote resulted in a tie with 4 "Aye votes," 4 "Nay votes," and 1 absent/excused. The **motion failed**.

VOTE ORIGINAL MOTION **Vice Chairman Broadsword** called for a Roll Call Vote on the original motion to reject **Docket No. 16-0309-1104**. The results of the vote were: **Chairman Lodge**, Nay; **Vice Chairman Broadsword**, Nay; **Senator Darrington**, Aye; **Senator Heider**, Aye; **Senator Vick**, Nay; **Senator Nuxoll**, Nay; **Senator Bock**, Aye; **Senator Schmidt**, Aye. The vote resulted in a tie with 4 "Aye votes," 4 "Nay votes," and 1 absent/excused. The **motion failed**.

Relating to Medicaid Enhanced Plan Benefits (Pending): Mr. Simnitt advised that approval of these pending rules will allow the Department to finalize the cost savings approach and policy changes required through H 260. He described for the Committee the directions of the Legislature and the actions taken by the Department to comply within the areas of: collateral contact; intake and functional assessments as well as comprehensive diagnostic assessments; restriction of duplicative skill training provided by a mental health provider and developmental disability provider; elimination of personal care service coordination; partial care benefits; Psycho-social rehabilitation (PSR) coverage; supportive counseling; individual Developmental Disabilities (DD) budget restrictions; and selective contract to provide oversight to Certified Family Homes providing residential habilitation services. **Mr. Simnitt** stated that while benefit changes are never easy, the Department believes that these pending rules comply with the direction provided through H 260 and will help the Medicaid program be sustainable into the future.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #9).

Senator Bock stated he has heard that some people who fall into both the DD and PSR categories are now requiring greater services, and asked if the separation was actually required by H 260 or is a product of policy decisions that can be refined a bit in order to avoid the problems related to it. **Mr. Simnitt** advised that H 260 language was very specific about limiting the duplicative services in mental health and DD. He stated that he has also heard of problems, but when the Department asks for specifics and looks to the data it does not see that. He said he feels there is a possibility to provide coordination and the Department is interested in helping to provide that coordination and look at other services and benefits that would be all right to combine and make this better for participants. **Senator Schmidt** indicated an appreciation for the effort to look for cost shifting and asked if it is possible that some people needing mental health services have moved to indigent services. **Mr. Simnitt** advised that is possible, if they move off the Medicaid roles, then the Department no longer has information. **Vice Chairman Broadsword** noted that indigent people must go through Medicaid first and be proven ineligible before qualifying for indigent benefits.

TESTIMONY:

Amika DuPree, of the Coeur d'Alene area, representing the State Board of the National Alliance of Mental Illness (NAMI) spoke **in opposition to Docket No. 16-0310-1105**. Her concern was that Medicaid requires a choice between PSR services and DD therapy. She noted the qualification differences for treatment in each area, with DD therapy requiring a high school degree while PSR therapy requires a minimum of a Bachelor's degree, continuing education requirements, and national certification.

Senator Bock asked, given the fact that these cuts are mandated, what kind of things NAMI is doing to work with the Department to make sure the Department has information to respond to problems in a more creative way. **Ms. DuPree** indicated NAMI is willing to coordinate with the Department and look at different ideas, such as, if someone needs both services, reducing slightly the amount of hours so they can receive both services.

TESTIMONY:

John Tanner, Idaho Falls, representing NAMI, spoke **in opposition to Docket No. 16-0310-1105**. His concern was with elimination of collateral contact coverage. He stated he had a son with severe schizophrenia and collateral contact is a very important part of his treatment plan. He added that medications work well, proving the fact that mental illness is a physical brain disease that requires professional help. He indicated he is aware that some PSR providers are continuing to provide this service without reimbursement.

Senator Schmidt noted that **Mr. Tanner** mentioned that some providers continue to provide service and not get paid, and asked if that has been his experience. He indicated he is aware of providers who are doing that and it is a financial strain.

TESTIMONY: **Cassie Mills**, President of Vocational Services of Idaho (VSI) and Employment Director for Community Partnerships of Idaho (CPI), spoke **in opposition to Docket No. 16-0310-1105**. She stated her agencies provide pre-vocational, vocational and Community Supported Employment supports to people with disabilities. Her clients have been severely impacted by the reduction in the number of Community Supported Employment hours and supports on the job.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #10).

TESTIMONY: **Marilyn Sword**, Executive Director, Idaho Council on Developmental Disabilities (ICDD), spoke **in opposition to Docket No. 16-0310-1105**. She stated she agrees with the previous testimony and provided written testimony for the Committee.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #11).

TESTIMONY: **Nikki Tangen** and her ward **Crystal** spoke **in opposition to Docket No. 16-0310-1105**. She stated Crystal has been diagnosed as bi-polar and is mentally retarded. She related her family history and indicated because of budget cuts to her benefits she has had to make some difficult choices regarding services. She chose services for DD over PSR, but Crystal lost a lot of ground in her effort to become independent and ultimately this has cost the state more money for an assisted living facility. She indicated the process to qualify Crystal for self direction services with the Center for Disabilities of Idaho (CDI) was started in October 2011 and she has been scheduled for the end of February 2012.

Vice Chairman Broadsword thanked **Ms. Tangen** for her testimony and for her work with Crystal.

TESTIMONY: **Kelly Keele**, representing Mental Health Providers Association, spoke **in opposition to Docket No. 16-0310-1105**. He indicated three sections of the rule need to be corrected: 1) elimination of collateral contact; 2) inability to serve people with a dual diagnosis; and 3) restoration of 5 hours of PSR therapy for adults.

TESTIMONY: **Katherine Hansen**, Vice President, Idaho Association of Developmental Disabilities Agencies and Executive Director of Community Partnerships of Idaho, spoke **in opposition to Docket 16-0310-1105**. She provided written testimony and stated that most of the people who have testified support that there should not be duplicative skill training and that mental health providers should not be training on the same skills as DD providers, but the individual who has a dual diagnosis should be able to have that professional provide skills training based on that particular area. She recommended modifying the language to clarify the intent is not to pay for two individuals providing the same type of skill training; the intent is to assure that we are not duplicating services.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #12).

Vice Chairman Broadsword extended appreciation for the comments and stated it is not too late to get legislation drafted. She then asked **Mr. Simnitt** to respond to comments of those who provided testimony. **Mr. Simnitt** reminded the Committee that the rule changes in this docket are the result of H 260 and the Department has little discretion. Related to the specific issues raised, he noted the duplicative services issues and indicated a willingness on the part of the Department to discuss specific cases and do some case management consultation on how a participant can use the benefits that are available. He advised that most people, because of the hours that are available under the DD program, tend to choose the DD schedule. Each person has to make a decision on their own on what best meets their needs and that can be revisited as needed. **Vice Chairman Broadsword** asked **Mr. Simnitt** if he would look into why a determination has taken so long for **Ms. Tangen's** ward, **Crystal**. **Mr. Simnitt** indicated he would do so and follow up with **Ms. Tangen**. He indicated he was surprised by that testimony inasmuch as the Center of Disabilities of Idaho has just 30 days to make an evaluation related to eligibility determination. Regarding collateral contact, he stated this is a piece of legislation put into place with H 701 and originated as a recommendation from the providers association as an opportunity to save money. He noted that there certainly is appropriate use of collateral contact and at some point the Department could revisit that decision.

Senator Heider commented that he feels the Department does a good job, but it seems there is no coordination between the Department and the providers in the field. He feels the Department needs to work out some of these issues with providers prior to presenting rules. **Mr. Simnitt** indicated that it is his feeling that the Department has an excellent working relationship with the providers. They have regular meetings with those providers and associations and for the most part we reach agreement in drafting rules, but there is always going to be some disagreement. He advised that there have been relatively few issues compared to the scope of changes under H 260. **Senator Heider** asked if the Department could take another look at collateral contact and work something out with the providers. **Vice Chairman Broadsword** asked **Mr. Simnitt** if the statute would allow that. **Mr. Simnitt** indicated the statute is very specific. **Vice Chairman Broadsword** suggested **Senator Heider** might like to work with the providers and come up with a statute change. **Senator Heider** responded that it would be his pleasure to do so.

MOTION: **Chairman Lodge** moved, seconded by **Vice Chairman Broadsword**, that the Committee approve **Docket 16-0310-1105**. **Vice Chairman Broadsword** commented that no one likes H 260 very well, but it is the law and we need to have rules in place to provide the working framework for that law.

ROLL CALL VOTE: **Senator Bock** requested a roll call vote. The results of that vote were: **Chairman Lodge**, Aye; **Vice Chairman Broadsword**, Aye; **Senator Darrington**, Nay; **Senator Smyser**, excused; **Senator Heider**, Nay; **Senator Vick**, Aye; **Senator Nuxoll**, excused; **Senator Bock**, Nay; **Senator Schmidt**, Aye. The motion passed with 4 "Aye" votes, 3 "Nay" votes, and 2 absent/excused.

GAVEL CHANGE: **Vice Chairman Broadsword** thanked the presenters and returned the gavel to **Chairman Lodge**.

ADJOURN: **Chairman Lodge** thanked **Vice Chairman Broadsword** for her leadership in rules review. She asked for Committee volunteers to work with **Mr. Leary** on the issues in **Docket 16-0310-1104** and adjourned the meeting at 5:18 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, January 18, 2012

DOCKET NO.	DESCRIPTION	PRESENTER
16-0225-1101	Rules Relating to Fees Charged by the State Laboratory - Streamlining and simplifying fees for laboratory tests (Pending Fee).	Dr. Chris Ball
16-0313-1101	Rules Relating to Consumer Directed Services - Enabling Department to respond to individual developmental disabilities budget modifications only when health and safety issues are identified (Pending).	Art Evans
16-0501-1101	Rules Relating to Use and Disclosure of Department Records - Updating rules to meet federal requirements for the Child Abuse Prevention and Treatment and Adoption Reform Act (Pending).	Shirley Alexander
16-0417-1101	Rules Relating to Residential Habilitation Agencies - Clarifying certification requirements for agency providers, health and safety critical incident reporting requirements, and certification enforcement procedures (Pending).	Eric Brown
16-0310-1005	Rules Relating to Medicaid Enhanced Plan Benefits - Clarifying Mental Health Program elements and establishing supervision and minimum professional requirements (Pending).	Pat Guidry
16-0319-1101	Rules Relating to Certified Family Homes - Adopting fees to cover the cost of certification and recertification of certified family homes (Pending Fee).	Debby Ransom

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge
Vice Chairman Broadsword
Sen Darrington
Sen Smyser
Sen Heider

Sen Vick
Sen Nuxoll
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, January 18, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Bock, and Schmidt

ABSENT/ EXCUSED: Senator Nuxoll

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:00 p.m. She welcomed guests and passed the gavel to **Vice Chairman Broadsword** to conduct rules review.

DOCKET NO. 16-0225-1101 **Relating to Fees Charged by the State Laboratory (Pending Fee). Dr. Chris Ball**, Chief, Bureau of Laboratories, Department of Health & Welfare (Department), advised that this rule streamlines and simplifies the fees for laboratory tests at the State Laboratory. Technical jargon has been eliminated, making the rule more understandable and more user friendly. Revisions also allow the Bureau greater flexibility to respond to public health concerns. He stated that as a result of consolidation and restructuring of methods, some of the fees have changed. In areas where multiple tests have been grouped together, the overall fee has increased. In other areas, efficiencies gained at the laboratory since its last biennial cost analysis have resulted in decreased direct costs per test. In these instances the fees have been lowered. **Dr. Ball** requested that the Committee approve **Docket No. 16-0225-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Senator Darrington asked if these fees are based on a national standard or if the Laboratory does its own time and materials studies in setting fees. **Dr. Ball** responded that it is actually a combination of both, depending on the area of the lab. The environmental testing fees take into consideration what surrounding laboratories who offer similar services are charging. On the other hand, if you look at the clinical test offerings, those fees are based on the in house assessment of cost and materials.

Senator Schmidt asked what clients the Laboratory serves. **Dr. Ball** advised the laboratory has a wide variety of clients. In the area of environmental testing they deal with a lot of other state agencies as well as the seven public health districts. In the clinical section they work with the district health departments, clinical laboratories and hospital laboratories throughout the state. In the emergency preparedness section, they work with a variety of state and local first responders. **Senator Heider** asked the reason for some fees being triple the previous fee. **Dr. Ball** indicated in many instances a number of different tests were consolidated that previously would have been billed separately.

Chairman Lodge asked whether she would take well water to be tested to the health district first, and is there a recommended time between collection of water and testing. **Dr. Ball** indicated this depends on what you are having the well water tested for. In the most common scenario, they would recommend that they do a series of tests, depending on location, for example in southwest Idaho for a private well owner it is recommended that they test annually for both coliform and nitrates and have a baseline test for arsenic. With regards to timing, he indicated this depends on the test. With Coliform testing the sample needs to be collected within 30 hours because it is a test for live bacteria. Other tests have a longer hold time. **Chairman Lodge** asked if members of the Committee could tour the State Laboratory. **Dr. Ball** responded they would be delighted to have the members of the Committee tour the Laboratory and show them what the capabilities are. He advised that Idaho was one of the first three laboratories in the nation to detect cases that led to the recognition of a recent E-coli outbreak related to spinach.

Senator Smyser thanked **Dr. Ball** for recognizing a need and making changes to benefit the people served by the Laboratory.

MOTION: **Senator Schmidt** moved, seconded by **Senator Heider**, that the Committee approve **Docket No. 16-0225-1101**. The motion carried by **voice vote**.

DOCKET NO. 16-0313-1101 **Relating to Consumer Directed Services (Pending).** **Arthur Evans**, Bureau Chief, Developmental Disability Services, Division of Medicaid, Department of Health and Welfare, advised that these rule changes are being made to align the rules with H 260 passed by the 2011 Legislature. These changes specifically address budget notifications, budget appeal information, and the specific conditions necessary for a budget modification. This will enable the Department to respond to requests for individual developmental disabilities budget modifications only when health and safety issues are identified. **Mr. Evans** requested that the Committee approve **Docket No. 16-0313-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

MOTION: **Senator Heider** moved, seconded by **Senator Vick**, that the Committee approve **Docket No. 16-0313-1101**. The motion carried by **voice vote**.

DOCKET NO. 16-0501-1101 **Relating to Use and Disclosure of Department Records (Pending).** **Shirley Alexander**, Child Welfare Program Manager, Division of Family and Community Services, Department of Health and Welfare, advised the Department is updating these rules to meet federal requirements for the Child Abuse Prevention and Treatment Act. This will allow the Department to share information with law enforcement, without a court order, thereby assisting law enforcement in carrying out their responsibilities to protect children from abuse or neglect. This pending rule existed until 2004, but was inadvertently deleted when the Department tightened the language in its rules to comply with HIPAA requirements. **Ms. Alexander** requested that the Committee approve **Docket No. 16-0501-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

Senator Schmidt asked why the phrase "or abandonment" is italicized in Section 08.13 of the legislation. **Ms. Alexander** deferred to **Ed Hawley**, State of Idaho, Department of Administration, Division of Administrative Rules, for an answer to the question. **Mr. Hawley** advised that italics indicates a change in the pending rule.

MOTION: **Senator Darrington** moved, seconded by **Chairman Lodge**, that the Committee approve **Docket No. 16-0501-1101**.

**DOCKET NO.
16-0417-1101**

Relating to Residential Habilitation Agencies (Pending). **Eric Brown**, Program Supervisor, State Licensing and Certification, Department of Health and Welfare, advised that the changes in this rule are designed to clarify the certification requirements for residential habilitation agency providers, the health and safety critical incident reporting requirements, and certification enforcement procedures. These changes implement changes adopted by the 2011 Legislature in H 260. He requested that the Committee approve **Docket No. 16-0417-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #4).

Senator Schmidt asked if the provisional certificate referred to on page 410 of this Docket can be renewed after an initial six month period for agencies who are working on compliance. **Mr. Brown** responded that the Department has not issued consecutive six month provisional certificates at this time. **Senator Schmidt** commented that the way this rule is written, it looks like the Department could do that. After consulting the rule, **Mr. Brown** advised **Senator Schmidt** is right and added that, if an agency is issued a provisional certificate, the Department would review it in six months. If they find the agency has achieved compliance a full certificate would be issued; if not, the Department would move to revoke that certificate.

TESTIMONY:

Michael Wilson, a social worker and Administrator for a privately owned residential habilitation agency, spoke **in opposition** to **Docket No. 16-0417-1101**. He stated his concern is with the language within the rule relating to the Department approved process of notification set forth in Section 404.04, and feels this process needs to be more clearly defined in the rule and in addition there is a lack of clarity as to the definition of critical incident. He stated that the Department has offered to work with the providers regarding reporting protocol, but feels if this rule is passed, the Department will have no motivation to continue working with the providers.

Vice Chairman Broadsword stated she understands the concern related to the notification process, but feels like this initial notification can be accomplished through email and followed up with appropriate documentation. She asked why an agency would be opposed to reporting a serious illness, accident, death, emergency medical care, hospitalization, adult protective services contact and investigation, or if the client is arrested. She commented that those things seem like common sense and something you would want the Department to know as soon as possible. **Mr. Wilson** stated they do not have a problem reporting a critical incident, but the electronic reporting form is four pages in length and the critical incident report user guide totals 27 pages in length. He added if every incident is reported it would overburden the providers and the Department.

Senator Heider noted that he appreciates Mr. Wilson's comments, but would like to hear from the Department that there really is a 24-page document that has to be filed on any of these incidents.

Vice Chairman Broadsword asked **Art Evans** to advise the Committee on how the Department responds to a critical incident report. **Mr. Evans** indicated that in an attempt to come up with some guidance for the agencies, his staff created a protocol. That protocol was too detailed and although he did send it to the providers for comment, he considers it a starting place and has no intention of making this a protocol for the agencies to follow until the Department and providers work together to reduce it to a report that is not taxing on the agencies but at the same time gives the Department information it needs. **Vice Chairman Broadsword** commented that this sounds like a commitment on the part of the Department to continue working with the providers to clarify and simplify the process so that it meets the department needs and the provider needs. **Mr. Evans** responded that is correct.

Senator Heider noted that both **Mr. Evans** and **Mr. Wilson** use the word "critical" while Section 404.04 uses the word "significant." He asked what the difference is. **Mr. Evans** indicated there is no difference; he uses the word critical because that is what is in the Department's reporting protocol at this time.

Senator Smyser asked **Mr. Wilson** if his concerns had been addressed. **Mr. Wilson** stated his only concern is based upon the need to clarify the Department's approved process and reduce it to writing. If the rule is approved as written and providers are expected to comply, it puts them in a difficult position. **Senator Smyser** asked **Mr. Evans** if he could clarify that for **Mr. Wilson**. **Mr. Evans** advised that the process is informal at this time and if the providers have concerns about whether something rises to the level of a critical incident, all they have to do is call and check with the Department; that the process is being developed as the Department works with the providers. **Senator Smyser** asked if **Mr. Evans** is indicating there will be a good faith effort on the part of the Department. **Mr. Evans** responded that is his position.

MOTION: **Senator Schmidt** moved, seconded by **Chairman Lodge**, that the Committee approve **Docket No. 16-0417-1101**. The motion carried by **voice vote**. **Vice Chairman Broadsword** thanked both the Department and the providers and stated she appreciated the commitment to work together. **Senator Heider** commented that he has the same sentiment and the legislative record now reflects that agreement to work together.

DOCKET NO. 16-0310-1005 **Relating to Medicaid Enhanced Plan Benefits (Pending).** **Pat Guidry Martelle**, Program Manager, Office of Mental Health and Substance Abuse, Division of Medicaid, Department of Health & Welfare, stated that the primary purpose of these rules is to ensure that workers in psychosocial rehab (PSR) agencies who are unlicensed must obtain national certification in their primary field of service delivery consistent with the requirements established by the national association charged with establishing standards for this field of workers, The United States Psychosocial Rehabilitation Association, also referred to as USPRA. This will promote improved quality, effectiveness and efficiency in the delivery of PSR services to participants. **Ms. Martelle** requested that the Committee adopt **Docket No. 16-0310-1005**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #5).

TESTIMONY: **Greg Dickerson**, representing Mental Health Providers Association of Idaho, spoke **in support** of **Docket No. 16-0310-1005**. He expressed appreciation to the Department for its hard work in bringing these rules to the Legislature.

MOTION: **Senator Darrington** moved, seconded by **Senator Smyser**, that the Committee approve **Docket No. 16-0310-1005**. The motion carried by **voice vote**.

DOCKET NO. 16-0319-1101 **Relating to Certified Family Homes (Pending Fee).** **Debby Ransom**, Licensing and Certification Bureau Chief, Department of Health and Welfare, stated that as required in H 260, these rule changes adopt fees to cover the costs of certification and recertification of certified family homes and provide enforcement action for nonpayment of the recertification fees. She outlined the fees associated with the certification process and indicated that at this time 98 percent of providers are complying with the certification and initial application fees. **Ms. Ransom** requested that the Committee approve **Docket No. 16-0319-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #6).

Senator Schmidt noted the wonderful compliance and asked how this will affect the pool of providers. **Ms. Ransom** indicated the Department does orientation and initial processing once a quarter. There are a number of providers wanting to come into the program and the Department is working very closely with those homes who are not able or are unwilling to pay the fees. This is about health and safety, not about closing homes.

Vice Chairman Broadsword drew upon her JFAC knowledge to respond to a question by **Senator Vick** related to the fiscal impact of this legislation. She advised that previously \$299,700 came from state general funds and \$299,700 came from federal funds. **Vice Chairman Broadsword** asked how many certified family home providers there currently are. **Ms. Ransom** advised that as of December 31, 2011 there were 2,161.

MOTION: **Senator Schmidt** moved, seconded by **Chairman Lodge**, that the Committee approve **Docket No. 16-0319-1101**. The motion carried by **voice vote**.

ADJOURN **Vice Chairman Broadsword** returned the gavel to **Chairman Lodge**, who thanked the presenters and the Committee and adjourned the meeting at 4:05 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, January 19, 2012

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of the Minutes of the January 11, 2012 Meeting	Senator Heider Senator Schmidt
16-0101-1101	Rules Relating to Emergency Medical Services (EMS) - Advisory Committee (Pending).	Wayne Denny
16-0107-1101	Rules Relating to Emergency Medical Services - Personnel licensing requirements (Pending).	Wayne Denny
16-0107-1102	Rules Relating to Emergency Medical Services - Personnel licensing fees (Pending Fee).	Wayne Denny
16-0112-1101	Rules Relating to Emergency Medical Services - Complaints, investigations and disciplinary actions (Pending).	Wayne Denny
16-0203-1101	Rules Relating to Emergency Medical Services - Removing items that have placed in Docket 16-0101-1101 (Pending).	Wayne Denny
16-0202-1101	Rules Relating to Emergency Medical Services Physician Commission - Revising Standards Manual (Pending).	Dr. Murry Sturkie

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge	Sen Vick
Vice Chairman Broadsword	Sen Nuxoll
Sen Darrington	Sen Bock
Sen Smyser	Sen Schmidt
Sen Heider	

COMMITTEE SECRETARY

Lois Bencken
Room: WW48
Phone: (208) 332-1319
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, January 19, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Bock, and Schmidt

ABSENT/ EXCUSED: Senator Nuxoll

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

INTRODUCTION: **Chairman Lodge** called the meeting to order at 3:03 p.m. and welcomed Committee members, as well as those in attendance. She explained that **Senator Nuxoll** was excused from the hearing to welcome a new grandchild into her family.

MINUTES APPROVAL: **Chairman Lodge** then stated that the Committee would begin with approval of the minutes. **Senator Heider** moved, seconded by **Senator Schmidt**, to approve the minutes of January 11, 2012. The motion carried by **voice vote**.

MINUTES: **Chairman Lodge** then passed the gavel to **Vice Chairman Broadsword** to conduct the rules review. **Vice Chairman Broadsword** welcomed the first presenter, **Wayne Denny**, Bureau Chief of the Emergency Medical Services Bureau, Division of Public Health, Department of Health & Welfare (Department). **Mr. Denny** began his presentation with a review of the history of the EMS Rules and the work of the task force convened to update these rules (see Attachment #1).

DOCKET NO. 16-0101-1101 **Rules Relating to Emergency Medical Services (EMS) - Advisory Committee (Pending).** **Mr. Denny** stated that while the EMS Advisory Committee (EMSAC) is well-represented by the Idaho EMS Physician Commission members, one of the stakeholder groups that is not well represented is Idaho Department of Transportation's (ITD) Office of Highway Operations and Safety. Due to the large number of EMS calls each year that are related to motor vehicle accidents, the proposed change is to designate one of the seats on the EMS Physician Commission to the ITD's Office of Highway Operations and Safety. **Mr. Denny** requested that the Committee approve **Docket No. 16-0101-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

MOTION: **Senator Darrington** moved, seconded by **Senator Smyser**, that the Committee adopt **Docket No. 16-0101-1101**. The motion carried by **voice vote**.

DOCKET NO. 16-0107-1101 **Rules Relating to Emergency Medical Services (Pending).** **Mr. Denny** advised that this rule provides for the licensing of EMS personnel, including: 1) standards and requirements for personnel licensure, including a description of the process by which an individual can regain an EMS personnel license after it has been lapsed for more than two years; 2) application process; 3) continuing education requirements; and 4) scope of practice including definitions and terminology for best practice of national standards. **Mr. Denny** requested that the Committee approve **Docket No. 16-0107-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

Vice Chairman Broadsword asked for an explanation of the acronym "AEMT." **Mr. Denny** responded that "AEMT" stands for Advanced Emergency Medical Technician.

Senator Schmidt asked if much feedback regarding the CLE process was received during rulemaking negotiations. **Mr. Denny** advised this was discussed at length and the rule allows an individual the ability, hopefully with the advice of their medical director, to set up individualized training that might be best for them and they can build continuing education around specialty requirements. He further advised that the education requirements for the four levels of licensed personnel - Emergency Medical Responder (EMR), Emergency Medical Technician (EMT), Advanced Emergency Medical Technician (AEMT) and Paramedic - are referenced in code. **Vice Chairman Broadsword** asked if the requirements are the same for volunteer personnel and those in for profit organizations. **Mr. Denny** responded that they are.

MOTION: **Senator Schmidt** moved, seconded by **Senator Heider**, that the Committee adopt **Docket No. 16-0107-1101**. The motion carried by **voice vote**.

DOCKET NO. 16-0107-1102 **Rules Relating to Emergency Medical Services (Pending Fee).** **Mr. Denny** stated that this docket is a companion to the personnel licensure rules and contains licensure fees for EMS personnel. The fees contained in these rules are unchanged from those that currently exist. The EMS Bureau is asking for no new or increased fees. **Mr. Denny** requested that the Committee approve **Docket No. 16-0107-1102**. Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #4).

MOTION: **Chairman Lodge** moved, seconded by **Senator Heider**, that the Committee adopt **Docket No. 16-0107-1102**. The motion carried by **voice vote**.

In response to a question from **Vice Chairman Broadsword**, **Mr. Denny** advised that the initial fee for an Advanced Emergency Medical Technician and Paramedic are the same, \$35.00; the renewal fee is \$25.00.

DOCKET NO. 16-0112-1101 **Rules Relating to Emergency Medical Services (Pending).** **Mr. Denny** stated that this group of rules direct the EMS Bureau's management of complaints and investigations. The number of complaints resulting in investigations processed by the EMS Bureau has grown from 13 in FY2005 to over 35 since July 1, 2011. Three years ago, an existing EMS Bureau staff position was reclassified to a full-time investigator due to the marked increase in complaints. The EMS Bureau's previous rules lacked the depth and specificity needed to conduct effective investigations that would result in defensible outcomes. The majority of this docket provides new language in the temporary rules, and is based on the work done during the negotiated rulemaking process. It provides requirements for: 1) filing complaints and disclosure of records; 2) handling investigations of complaints and compliance with licensing standards; 3) enforcement and disciplinary actions; and 4) notification of disciplinary actions. **Mr. Denny** requested that the Committee approve **Docket No. 16-0112-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #5).

Vice Chairman Broadsword noted there is no minimum fine listed in the rule. **Mr. Denny** advised the minimum would be zero and stated that would be the last tool of compliance; a fine has not been levied to date. **Senator Darrington** asked if those involved in the peer review process are subject to liability. **Mr. Denny** responded that he could not answer for certain, but he suspects they would be shielded from liability.

Chairman Lodge noted the increase in complaints in recent years, and asked what area those complaints involve. **Mr. Denny** indicated that the increase is in part due to quality assurance processes put into place within the Bureau and many complaints are internal and discovered by the Bureau in this process. They may be related to improper utilization of vehicles to forged signatures discovered in an audit of renewal applications. He stated that a small amount are patient care related. **Chairman Lodge** commented that it is good to know that many complaints are not patient care related.

In response to a question from **Senator Heider** related to license renewal, **Mr. Denny** advised that all personnel are required to complete a course prior to licensing. He stated that then the license renewal cycle is three years for EMR and EMT and two years for AEMT and Paramedic. During that time they must complete continuing education requirements; no specific course is required for license renewals.

MOTION: **Senator Heider** moved, seconded by **Senator Bock**, that the Committee adopt **Docket No. 16-0112-1101**. The motion carried by **voice vote**.

DOCKET NO. 16-0203-1101 **Rules Relating to Emergency Medical Services (Pending).** **Mr. Denny** stated that this is merely a housekeeping docket. The rules are the remaining elements from current rules that will not be replaced by the new EMSAC, personnel, or investigation rules. The changes to the proposed text in this docket remove those items that have been placed into the rule adopted under **Docket 16-0101-1101**. This docket is necessary in order to enable the other pending rules presented but contains no substantive changes. **Mr. Denny** requested that the Committee approve **Docket No. 16-0203-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #6).

MOTION: **Senator Smyser** moved, seconded by **Chairman Lodge**, that the Committee adopt **Docket No. 16-0203-1101**. The motion carried by **voice vote**.

DOCKET NO. 16-0202-1101 **Rules Relating to Emergency Medical Services Physician Commission (Pending).** **Dr. Murry Sturkie**, an emergency medicine physician at St. Luke's Medical Center and the Chairman of the Idaho Emergency Medical Services Physician Commission (Commission), advised that the Commission maintains a Standards Manual that, among other things, describes the skills, treatments and procedures that licensed EMS personnel in Idaho may perform. The Commission, during quarterly meetings, refines the Standards Manual to reflect current best practices in emergency medical services. This rule incorporates the latest version of the Standards Manual (see Attachment #7) which is incorporated by reference in this rule. **Dr. Sturkie** provided the Committee with a "Summary of Changes to the EMS Physician Commission Standards Manual 2011-1 to 2012-1" (see Attachment #8) and detailed the changes that have been made to the 2012 version of the Standards Manual. He requested that the Committee approve **Docket No. 16-0202-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #9).

Senator Bock noted that the copy of the Standards Manual is marked as a "draft," and indicates an effective date of July 1, 2012. He asked if other changes will be made to the 2012 draft version of the Standards Manual. **Dr. Sturkie** responded that no other changes are anticipated; that the Standards Manual is printed as a draft until approved by the committee. **Senator Bock** further inquired what the parameters are if something needs to be done to save the life of a patient that is outside the responder's scope of practice. **Dr Sturkie** advised that there is immunity for actions within the scope of practice; and if someone does something beyond what they have been trained to do and outside the scope of practice, they would be subject to liability. He added that scope of practice allows the responder, under specific circumstances, to protect the life of the individual, but that would not include performing a cesarean section on the street.

Vice Chairman Broadsword asked if the Advisory Committee is different from the Physician Commission. **Dr. Sturkie** advised that the Physician Commission is appointed by the Governor and the Advisory Committee is within the EMS Bureau. **Senator Schmidt** asked if the transport of a patient with an external pacer in a rural community without paramedics would require personnel skilled beyond EMS, such as an R.N. or M.D. **Dr. Sturkie** responded, "Yes, they would have to send someone with competence in that area."

MOTION: **Senator Darrington** moved, seconded by **Senator Schmidt**, that the Committee approve **Docket No. 16-0202-1101**. The motion carried by **voice vote**.

ADJOURN: **Vice Chairman Broadsword** returned the gavel to **Chairman Lodge** who announced the Committee would be hearing DEQ rules on Monday. There being no further business to come before the Committee, the meeting was adjourned at 3:45 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

Diana Page
Assistant Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, January 23, 2012

SUBJECT	DESCRIPTION	PRESENTER
<u>RS20867</u>	Allowing Department of Health and Welfare to disclose information vital to the health and well being of children who are under the jurisdiction of child protective services.	Senator Corder, District 22
Docket No. <u>58-0105-1101</u>	Rules Relating to Standards for Hazardous Waste - Update of federal regulations incorporated by reference (Pending).	Orville Green
<u>58-0104-1001</u>	Rules Relating to Administration of Wastewater Treatment Facility Grants - Revise the priority rating criteria to closely match the Clean Water State Revolving Fund loan criteria, address the need to reduce the obligation to conduct an environmental study in those cases in which a grant recipient will not immediately pursue federal aid for construction, and update the cost eligibility criteria to achieve consistency (Pending).	Barry Burnell
<u>58-0112-1001</u>	Rules relating to Administration of Water Pollution Control Loans - Revisions for consistency with the recent changes to the Clean Water State Revolving Fund (Pending).	Barry Burnell
<u>58-0120-1001</u>	Rules Relating to Administration of Drinking Water Loan Program - Revisions for consistency with the recent changes to the Drinking Water State Revolving Fund (Pending).	Barry Burnell
<u>58-0122-1001</u>	Rules Relating to Administration of Planning Grants for Public Drinking Water Facilities - Revise the priority rating criteria to closely match the Drinking Water State Revolving Fund loan criteria, address the need to reduce the obligation to conduct an environmental study in those cases in which a grant recipient will not immediately pursue federal aid for construction, and update cost eligibility criteria to achieve consistency (Pending).	Barry Burnell
<u>58-0101-1001</u>	Rules Relating to the Control of Air Pollution in Idaho - addressing small scale crop residue burns (Pending).	Martin Bauer
<u>58-0101-1003</u>	Rules Relating to the Control of Air Pollution in Idaho - Streamlining Idaho's Rules for Control of Kraft Pulp Mills (Pending).	Martin Bauer

<u>58-0101-1101</u>	Rules Relating to the Control of Air Pollution in Idaho - Incorporating by reference the final rule for Prevention of Significant Deterioration (PSD) for Particulate Matter Less than 2.5 Micrometers (Pending).	Martin Bauer
<u>58-0101-1102</u>	Rules Relating to the Control of Air Pollution in Idaho - Repeal of electric generating unit construction prohibition (Pending).	Martin Bauer
<u>58-0101-1103</u>	Rules Relating to the Control of Air Pollution in Idaho - Update of federal regulations incorporated by reference (Pending).	Martin Bauer

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge	Sen Vick
Vice Chairman Broadsword	Sen Nuxoll
Sen Darrington	Sen Bock
Sen Smyser	Sen Schmidt
Sen Heider	

COMMITTEE SECRETARY

Lois Bencken
Room: WW48
Phone: (208) 332-1319
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, January 23, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:00 p.m., welcoming all in attendance.

RS 20867 **Allowing the Department of Health and Welfare to disclose information vital to the health and well-being of children who are under the jurisdiction of child protective services.** **Senator Tim Corder**, District 22, stated that this legislation will allow the Department of Health & Welfare (Department) to disclose information about children who are under the jurisdiction of child protective services. Under current law, information vital to the health and well being of children, even medical information, routinely is not shared, and in many cases may not be shared, from one foster parent to another or by other decision makers. Females removed from a home where abuse has occurred from male siblings might well be placed in a home where males reside and the foster parent is never told. He stated this legislation will allow the Department to better define, in rule, the information that will be disclosed and made available to foster parents, adoptive parents, guardians, and other legally responsible parties. **Senator Corder** requested the Committee send **RS 20867** to print.

Senator Bock asked if we are expanding the authority of Health & Welfare beyond what is appropriate in giving them free license to make rules that might not be authorized by statute. **Senator Corder** responded it is his belief that this gives the Department the license to write more rules, but not the liberty to expand their authority. They will still have to come back to this Committee with every rule they write. The statutory authority is to protect children and right now the rules we have are not allowing them to do that in a way that is required today. **Senator Vick** inquired why the added language states "unless otherwise provided by agency rule," rather than "unless otherwise provided by law." **Senator Corder** advised that "law" could have been used, but this way gives the Department a bit more flexibility to adapt as conditions change and every time they make a change in rule the Committee will see it. He stated it would be his preference to allow the Department to make those changes in rule.

MOTION: **Vice Chairman Broadsword** moved, seconded by **Senator Smyser**, to send **RS 20867** to print. The motion carried by **voice vote**.

Vice Chairman Broadsword commented that a few technicality questions need to be answered when the bill comes back to the Committee, but it makes common sense that the information should follow the child.

Chairman Lodge then passed the gavel over to **Vice Chairman Broadsword** to continue with rules review.

Vice Chairman Broadsword acknowledged **Toni Hardesty**, Director of the Department of Environmental Quality (DEQ), who advised that due to a jury duty call, **John Brueck**, Hazardous Waste Regulation and Policy Coordinator, Department of Environmental Quality, will present **Docket No. 58-0105-1101** in place of **Orville Green**.

**DOCKET NO.
58-0105-1101**

Rules Relating to Standards for Hazardous Waste (Pending). **Mr. Brueck** advised that this proposed rule updates the federal regulations incorporated by reference to include those revised as of July 11, 2011. This is a routine annual procedure that DEQ performs to satisfy consistency and stringency requirements of the Idaho Hazardous Waste Management Act and is necessary to maintain program primacy.

Between July 1, 2010 and June 30, 2011, two final federal hazardous waste regulations were published in the Federal Register that are proposed for adoption by reference. One of these rules involves removing saccharin and its salts from the lists of hazardous constituents and commercial chemical products which are hazardous when discarded. This change is in response to a petition filed by the Calorie Control Council. Key public health agencies and the EPA conducted a review concerning the carcinogenic and other potential toxicological effects of saccharin. As a result of the review, the EPA granted the petition to remove saccharin and its salts from the lists contained in the federal regulations.

The second rule change involves technical corrections to the alternative set of hazardous waste generator regulations that may be implemented by academic laboratories under certain conditions. Other corrections in the docket are housekeeping changes only. **Mr. Brueck** requested these rules be approved by the Committee.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

MOTION:

Senator Schmidt moved, seconded by **Chairman Lodge**, to adopt **Docket 58-0105-1101**. The motion carried by **voice vote**.

**DOCKET NO.
58-0104-1001**

Rules relating to Administration of Wastewater Treatment Facility Grants - Revise the priority rating criteria to closely match the Clean Water State Revolving Fund loan criteria, address the need to reduce the obligation to conduct an environmental study in those cases in which a grant recipient will not immediately pursue federal aid for construction, and update the cost eligibility criteria to achieve consistency (Pending). **Barry Burnell**, Water Quality Division Administrator, DEQ, advised that this docket and the three following dockets he is presenting are all related and a part of DEQ's loan and grant program. This update is proposed to achieve rating criteria consistent with the Clean Water State Revolving Fund (SRF) loan criteria and to facilitate compliance with new Federal SRF regulations. The changes proposed are so that if one is going through a grant process and receives a grant they will have an indication of how the project will rate on the Department's loan criteria. **Mr. Burnell** requested that the Committee adopt **Docket No. 58-0104-1001**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

Senator Darrington asked if in general these are revolving loan funds. He commented that a few years ago these funds were able to service the needs of the communities within a reasonable period of time and asked if that was still the case. **Mr. Burnell** responded that they are revolving loan funds, however the requests for funds now outstrips DEQ's capability to provide loans to communities and about half of the requests for low interest loans are turned away. He stated the community

systems are ranked and rated according to condition and the worst systems are the first ones to get loan funds. **Vice Chairman Broadsword** noted that engineering reports have been moved to the planning documents. **Mr. Burnell** indicated that is correct and that the planning documents give more flexibility to include engineering reports, preliminary engineering reports, or facility plans, so all four rules include a more generic description of what the planning document is so it can cover those three types of documents.

Vice Chairman Broadsword inquired if the following three rules mirror this rule. **Mr. Burnell** responded that the two grant rules match each other and the two loan rules match each other and then both the grant and loan rules cross each other on the grading criteria, so there is a high degree of similarity between all four rules. **Senator Schmidt** asked if the definition used for "sustainability" comes from the federal definition. **Mr. Burnell** advised that sustainability is a requirement in the federal capitalization grant that DEQ receives. He stated that the definition in this rule is DEQ's, but does include components that are part of the federal requirements for sustainability such as life of capital assets, green building practices and other environmental and innovative approaches. Those are all various components of sustainability so DEQ matched that in its definition.

Senator Schmidt commented that he had read all four of these related dockets, that they are similar, and the definition changes are similar. He asked if the Committee would entertain a motion to approve all four dockets. **Vice Chairman Broadsword** indicated that would be appropriate.

**DOCKET NO.
58-0112-1001**

Rules relating to Administration of Water Pollution Control Loans - Revisions for consistency with the recent changes to the Clean Water State Revolving Fund (Pending). **Mr. Burnell** noted the changes to **Docket No. 58-0112-1001** make the requirement to produce an environmental study as part of a planning document optional, and cost eligibility criteria have been updated to achieve consistency. He advised the change to make the environmental study optional will reduce costs for grant recipients in their preparation of facility planning studies.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

**DOCKET NO.
58-0120-1001**

Rules relating to Administration of Drinking Water Loan Program - Revisions for consistency with the recent changes to the Drinking Water State Revolving Fund (Pending).

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #4).

**DOCKET NO.
58-0122-1001**

Rules relating to Administration of Planning Grants for Public Drinking Water Facilities - Revise the priority rating criteria to closely match the Drinking Water State Revolving Fund loan criteria, address the need to reduce the obligation to conduct an environmental study in those cases in which a grant recipient will not immediately pursue federal aid for construction, and update cost eligibility criteria to achieve consistency (Pending).

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #5).

MOTION:

Senator Schmidt moved, seconded by **Senator Darrington**, to adopt **Docket Nos. 58-0104-1001, 58-0112-1001, 58-0120-1001, and 58-0122-1001**. The motion carried by **voice vote**.

**DOCKET NO.
58-0101-1001**

Rules relating to the Control of Air Pollution in Idaho (Pending). **Martin Bauer**, Air Quality Administrator for the DEQ, stated this rule is an amendment to the crop residue burning rules. He provided a brief history of crop residue burning program in Idaho and indicated this rule streamlines and establishes the conditions under which a permit by rule can be issued to a farmer or burner for either propane flaming, or spot and agricultural baled burns. **Mr. Bauer** requested **Docket No. 58-0101-1001** be approved by the Committee.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #6).

In response to questions from **Senator Schmidt**, **Mr. Bauer** advised that DEQ anticipates approval by the EPA as this rule is based on what other states are already doing. He stated that the burn time of a bale is cut substantially by the requirement that the bale be spread out. **Senator Vick** asked if this is an area where the state of Idaho has primacy, and if so, what is the advantage if everything still has to be approved by EPA. **Mr. Bauer** explained that state primacy gives DEQ the flexibility to handle the program locally. Although EPA approval is necessary so that everyone, including the farmers and the public are protected, burn programs are handled through the state office. If EPA were to run this program, everything would have to be done through EPA in Seattle.

MOTION:

Senator Darrington moved, seconded by **Chairman Lodge**, to adopt **Docket 58-0101-1001**. The motion carried by **voice vote**.

**DOCKET NO.
58-0101-1003**

Rules relating to the Control of Air Pollution in Idaho (Pending). **Mr. Bauer** stated that the purpose of this rule is to streamline Idaho's Rules for Control of Kraft Pulp Mills by removing requirements that are either obsolete or covered by existing federal rules and by clarifying reporting requirements. **Mr. Bauer** requested **Docket No. 58-0101-1003** be approved by the Committee.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #7).

MOTION:

Chairman Lodge, moved, seconded by **Senator Heider**, to adopt **Docket No. 58-0101-1003**. The motion carried by **voice vote**.

**DOCKET NO.
58-0101-1101**

Rules relating to the Control of Air Pollution in Idaho (Pending). **Mr. Bauer** stated that the purpose of this rule is to incorporate by reference the final rule for Prevention of Significant Deterioration (PSD) for Particulate Matter Less than 2.5 Micrometers (PM2.5 Rule) adopted by EPA. He advised that this rule basically applies to industrial facilities that emit large quantities of PM2.5 or PMfine and addresses how permits are to be written and analyzed. **Mr. Bauer** requested **Docket No. 58-0101-1101** be approved by the Committee.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #8).

MOTION:

Senator Heider moved, seconded by **Senator Schmidt**, to adopt **Docket 58-0101-1101**. The motion carried by **voice vote**.

**DOCKET NO.
58-0101-1102**

Rules relating to the Control of Air Pollution in Idaho (Pending). **Mr. Bauer** testified that this proposed rule change is a repeal of the electric generating unit construction prohibition that was adopted in 2007. He provided a history of the mercury emission rules and legislation and an overview of the need for this rule. **Mr. Bauer** requested **Docket No. 58-0101-1102** be approved by the Committee.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #9).

In response to questions and comments from **Senator Darrington**, **Mr. Bauer** agreed that with the repeal contained in this rule it will be possible to site a coal fired plant under these rules. He also discussed the coal gasification plant which was proposed near American Falls, noting that gasification is a different proposal and a different method than the coal fired generating plant. He stated that the intent of that plant was to actually create diesel from coal and it would not even be generating power. **Senator Darrington** further commented that he felt the legislature reacted to emotion when they put the two year moratorium on coal fired plants and it seems like the actions of the DEQ Board and changes in the rules have facilitated a reasonable approach to what can be accommodated should the request be there. **Mr. Bauer** agreed with that statement.

MOTION: **Senator Nuxoll** moved, seconded by **Senator Heider**, to adopt **Docket No. 58-0101-1102**. The motion carried by **voice vote**.

DOCKET NO. 58-0101-1103 **Rules relating to the Control of Air Pollution in Idaho (Pending).** **Mr. Bauer** stated that this rule is the DEQ's annual routine incorporation by reference of all federal changes and appropriate regulations into Idaho's air quality rules. This rule is needed to ensure that Idaho's air quality program maintains consistency with the federal regulations. **Mr. Bauer** requested **Docket No. 58-0101-1103** be approved by the Committee.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #10).

Senator Darrington commented that he is a big fan of primacy because we must live by the federal rules whether we administer the program or they administer the program. If we administer the program we have consistency and oversight on an ongoing basis and it is much to our advantage. He stated we do not have any options with regard to whether or not to adopt the federal changes.

MOTION: **Senator Darrington** moved, seconded by **Senator Schmidt**, to adopt **Docket No. 58-0101-1103**. The motion carried by **voice vote**.

Vice Chairman Broadsword returned the gavel to **Chairman Lodge**, who adjourned the meeting at 4:00 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

Diana Page
Assistant Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Tuesday, January 24, 2012

SUBJECT	DESCRIPTION	PRESENTER
<u>19-0101-1101</u>	Relating to Rules of the State Board of Dentistry - Correct an unintended negative impact to licensees regarding limitations on continuing education requirements; delete an advertising standard; distinguish incorporated documents as professional standards; correct conflict regarding dental hygienist rules of practice; and clarify board's role in approving dental assistant curriculum (Pending).	Susan Miller
<u>19-0101-1102</u>	Relating to Rules of the State Board of Dentistry - Authorize dentist who holds a moderate enteral sedation permit to administer enteral sedation to patients who are sixteen years of age and older and one hundred pounds and over (Pending).	Susan Miller
<u>15-0202-1101</u>	Relating to Rules of Vocational Rehabilitation Services - Aligning the Idaho Commission for the Blind and Visually Impaired Vocational Rehabilitation policy with federal guidelines (Pending).	Angela Jones
<u>23-0101-1002</u>	Relating to Rules of the Idaho Board of Nursing - Authorize Board to measure beginning level competency for medical assistant applicants (Pending).	Sandra Evans
<u>RS20780</u>	Granting Board of Nursing the statutory authority to develop and implement alternatives to discipline.	Sandra Evans
<u>RS20801</u>	Authorizing Board of Nursing to expand upon the work of the Governor's Nursing Taskforce.	Sandra Evans
<u>RS20802</u>	Satisfy auditor's requirements and clarify procedures related to criminal background checks of applicants wishing to become certified medication assistants.	Sandra Evans

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge

Vice Chairman Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken

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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, January 24, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:03 p.m. and passed the gavel to **Vice Chairman Broadsword** to continue rules review.

DOCKET NO. 19-0101-1101 **Relating to Rules of the State Board of Dentistry (Pending).** **Susan Miller**, Executive Director of the Idaho Board of Dentistry, stated the purpose of the proposed rule change is to: 1) correct an unintended negative impact to licensees regarding continuing education requirements; 2) delete an advertising standard which was ruled unconditional; 3) change reference to documents incorporated by reference as professional standards; 4) correct potential conflict in rules regarding dental hygienist rules of practice; 5) clarify the Board's role in approving dental assistant curriculum; and 6) general housekeeping changes. **Ms. Miller** requested the Committee approve **Docket No. 19-0101-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #1)

Senator Bock asked what type of restorative functions dental hygienists would be allowed to perform. **Ms. Miller** responded that the restorative endorsement allows a dental hygienist in an extended access care setting to place filling material in a tooth that has been prepped by a dentist. **Chairman Lodge** asked if the rule contains a definition of "verifiable" as it pertains to verifiable credits. **Ms. Miller** advised that the Board did not define "verifiable" in the rule, but that applicants could provide a receipt for an online study course or a copy of a completed test which would verify the credit, and that it would be looked at on a case by case basis.

Ed Holly with the Division of Administrative Rules was present and **Vice Chairman Broadsword** asked him if the term "verifiable" is defined anywhere in Idaho Code. **Mr. Holly** indicated he did not know if that term is defined in code. **Vice Chairman Broadsword** suggested that if it is not, perhaps it should be looked at in the future.

MOTION: **Senator Vick** moved, seconded by **Senator Heider**, that the Committee adopt **Docket No. 19-0101-1101**. The motion carried by **voice vote**.

DOCKET NO. 19-0101-1102 **Relating to Rules of the State Board of Dentistry (Pending).** **Ms. Miller** stated the Board proposes to change the rule to allow qualified dentists to administer moderate enteral sedation to patients who are 16 years of age and older and 100 pounds and over. **Ms. Miller** requested the Committee approve **Docket No. 19-0101-1102**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

Senator Nuxoll asked for a definition of enteral sedation. **Ms. Miller** advised that is a term used for oral sedation.

MOTION: **Senator Nuxoll** moved, seconded by **Senator Heider**, that the Committee adopt **Docket No. 19-0101-1102**. The motion carried by **voice vote**.

DOCKET NO. 15-0202-1101 **Relating to Rules of Vocational Rehabilitation Services (Pending).** **Angela Jones**, Administrator, Idaho Commission for the Blind and Visually Impaired (Commission), stated these changes will put the Commission in compliance with federal regulations. The Commission is adding a policy outlining who may refer applicants to the Vocational Rehabilitation (VR) Program, and the information required by the referring agent. Under this policy each referred individual must be seen or contacted by Commission staff within three working days. The application for VR services is changed to indicate all ways that a client is considered to have applied, and the policy requiring SSA beneficiaries to use those funds for maintenance, rent and food while in the training center is being removed, as this is not allowed under federal regulations. She noted that maintenance costs have increased and thus those limits have increased. **Ms. Jones** advised this change will make the forms and process more accessible to clients and requested the Committee approve **Docket No. 15-0202-1101**.

Vice Chairman Broadsword asked for a clarification as to whether **Ms. Jones** was referring to the applicant's Social Security number, or Social Security check. **Ms. Jones** advised that the Commission cannot require the use of the Social Security Check.

Vice Chairman Broadsword commented that the Maintenance cost is limited to \$500 per month and \$3,000 per year. **Ms. Jones** confirmed that statement.

MOTION: **Senator Smyser** moved, seconded by **Senator Heider**, that the Committee adopt **Docket No. 15-0202-1101**. The motion carried by **voice vote**.

DOCKET NO. 23-0101-1002 **Relating to Rules of the Idaho Board of Nursing (Pending).** **Sandra Evans**, Executive Director, Idaho Board of Nursing, advised that Board rules currently require that applicants for certification as a medication assistant must pass an examination as a measure of beginning competence. Because of the anticipated very low volume of applicants, it is not financially feasible for vendors to develop an examination for use in Idaho; however, a national examination for initial certification as a medication assistant is in the process of being developed for use by all states with an anticipated implementation in the very near future. This rule allows applicants applying for initial certification as a medication assistant to demonstrate initial competence through processes other than testing. By removing language requiring success on an examination and by authorizing issuance of temporary certification, the Board of Nursing has been able to establish alternative processes for competence determination until an acceptable examination becomes available. **Ms. Evans** requested the Committee approve **Docket No. 23-0101-1002**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

Senator Schmidt asked if under temporary certification an applicant needs to be recertified every six months until a national examination is available. **Ms. Evans** responded, "No," and explained that temporary certification is a provision to allow the medication assistant graduate to enter practice for a preceptor 80-hour experience and the preceptor would then attest to their competence and certification would be based on that.

MOTION: **Chairman Lodge** moved, seconded by **Senator Nuxoll**, to adopt **Docket No. 23-0101-1002**. The motion carried by **voice vote**.

**GAVEL
CHANGE:**

Vice Chairman Broadsword returned the gavel to **Chairman Lodge**, who thanked her for the excellent job on rules review.

RS 20780

Relating to Nurses. **Ms. Evans** advised that this legislation grants the Board of Nursing clear statutory authority to develop and implement an alternative to formal discipline in cases where minor substandard practice has occurred and there is no showing on the part of the nurse of intentional or reckless behavior and where there is no evidence of substantial harm caused by the deficiency. **Ms. Evans** requested the Committee send **RS 20780** to print.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #4).

Senator Symser asked **Ms. Evans** to give an alternative discipline example. **Ms. Evans** noted that should an operating room nurse transfer to the Pediatrics floor, the nurse may be clumsy in the unfamiliar practice. Rather than disciplining the license because of the nurse's lack of experience the Board might agree with the individual to take further training or work under a preceptor for a period of time.

Senator Smyser asked if someone was clumsy in the past, would this action be written up and placed in the nurses file with no recourse. **Ms. Evans** explained that some nurses might have been referred for further orientation or education. In other instances the employer might file a formal complaint with the Board. The Board then investigates the complaint and the ability to remediate is limited. **Senator Schmidt** asked if the Board did become aware of someone with a deficiency and set up a remediation program, would there be record keeping on what had been done and what was required. **Ms. Evans** stated, "Absolutely." She added that even though the process would be an alternative to formal discipline it would be a formal process and she would anticipate, based upon what other states have done, that a formal contract would be used to document the requirements and time limits.

MOTION:

Vice Chairman Broadsword moved, seconded by **Senator Nuxoll**, that the Committee send **RS 20780** to print. The motion carried by **voice vote**.

RS 20801

Relating to Nurses. **Ms. Evans** stated the proposed legislation authorizes the Board of Nursing to use its dedicated resources to support nursing workforce initiatives that will serve to improve the delivery of quality health care in Idaho. She added that she would anticipate that the Board will do a line item budget each year to fund initiatives. **Ms. Evans** requested that the Committee send **RS 20801** to print.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #5).

MOTION:

Senator Darrington moved, seconded by **Vice Chairman Broadsword**, that the Committee send **RS 20801** to print. The motion carried by **voice vote**.

RS 20802

Relating to Nursing. **Ms. Evans** advised that a recent FBI audit of the Board of Nursing's conduct of criminal background checks identified that statutory language does not specify the basis for the background checks to be applicant fingerprints, thereby preventing the Board from accessing the national fingerprint database. The proposed legislation is sufficient to correct the deficiency and satisfy the FBI's requirements. **Ms. Evans** requested that the Committee send **RS 20802** to print.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #6).

Senator Bock asked how this issue arose. **Ms. Evans** commented that every three years the Board undergoes a FBI audit, and during one of the latest audits, the FBI identified that the Board did not have the ability to do a fingerprint based background check. **Senator Bock** asked if adequate information is given to the applicant who is being asked to consent to the use of fingerprints. **Ms. Evans** replied that part of the Board's processing includes the applicant's agreement to submit to the fingerprint background check.

MOTION: **Senator Bock** moved, seconded by **Senator Heider**, that the Committee send **RS 20802** to print. The motion carried by **voice vote**.

ADJOURN: **Chairman Lodge** recognized **former Representative Margaret Henbest** and thanked her for her attendance at the meeting. There being no further business to come before the Committee, the meeting was adjourned at 3:35 P.M.

Senator Lodge
Chairman

Lois Bencken
Secretary

Janet Drake
Assistant Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, January 25, 2012

DOCKET NO.	DESCRIPTION	PRESENTER
<u>24-1001-1101</u>	Relating to Rules of the State Board of Optometry - Eliminate the ballot process for appointment of board members (Pending).	Roger Hales
<u>24-1101-1101</u>	Relating to Rules of the State Board of Podiatry - Increase annual renewal fee (Pending Fee).	Roger Hales
<u>24-1301-1101</u>	Relating to Rules of the Physical Therapy Licensure Board - Amend continuing education rules (Pending).	Roger Hales
<u>24-1401-1101</u>	Relating to Rules of the State Board of Social Work Examiners - Clarify approved colleges and universities and social work program (Pending).	Roger Hales
<u>24-1501-1101</u>	Relating to Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists - Update to current standards, provide clarification, and simplify licensure by endorsement (Pending).	Roger Hales
<u>24-1601-1101</u>	Relating to Rules of the State Board of Dentistry - Increase annual renewal fee (Pending Fee).	Roger Hales
<u>24-1701-1101</u>	Relating to Rules of the State Board of Acupuncture - Replacing the technician certificate with the acupuncture trainee permit - (Pending Fee).	Roger Hales
<u>24-1901-1101</u>	Relating to Rules of the Board of Examiners of Residential Care Facility Administrators - Implements the qualifications for licensure consistent with statute (Pending).	Roger Hales
<u>24-2301-1101</u>	Relating to Rules of the Speech and Hearing Services Licensure Board - Provides for licensure by endorsement and educational equivalency (Pending).	Roger Hales
<u>24-0501-1101</u>	Relating to Rules of the Board of Drinking Water and Wastewater Professionals - Update to current national standards and provide clarification, amend requirements section and length of time it takes to reach various license classes (Pending).	Roger Hales

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge

Vice Chairman Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken

Room: WW48

Phone: (208) 332-1319

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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, January 25, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:05 p.m. and passed the gavel to **Vice Chairman Broadsword** to conduct rules review.

DOCKET NO. 24-1001-1101 **Relating to Rules of the State Board of Optometry (Pending).** **Roger Hales**, representing the Bureau of Occupational Licenses and the Licensure Boards it serves, advised that the 2011 Legislature passed S 1137 which eliminated the ballot process for appointment of board members. This rule change will eliminate the ballot process language in the rule to be consistent with the current statute. He recognized **Dr. Rodney L. White**, Chairman of the State Board of Optometry, and requested that the Committee approve **Docket No. 24-1001-1101**.

Senator Schmidt asked if this ballot process was incorporated in some other rule. **Mr. Hales** advised that the statute sets forth the process for appointment of board members and allows any association to submit nominations to the Governor.

MOTION: **Senator Smyser** moved, seconded by **Senator Schmidt**, that the Committee approve **Docket No. 24-1001-1101**. The motion carried by **voice vote**.

DOCKET NO. 24-1101-1101 **Relating to Rules of the State Board of Podiatry (Pending Fee).** **Mr. Hales**, on behalf of the Board of Podiatry (Board), advised that the Bureau of Occupational Licensing has a single fund that accumulates all Board revenues to provide flexibility for the various occupational boards. The Board of Podiatry, which currently has 73 licensees, has had a number of very significant disciplinary actions and as of December 31, 2011, this board had a negative fund balance of \$171,000. The Board recognizes that it needs to start working through its deficit balance and with this rule is proposing an increase in the annual license renewal fee from \$400 to \$500. The anticipated impact is a total positive impact of \$7,100 annually. He requested that the Committee approve **Docket No. 24-1101-1101**.

Vice Chairman Broadsword asked why the Board did not also raise the initial license fee to mirror the renewal. **Mr. Hales** indicated that the easiest way to generate revenue is with the renewal fee. The Board felt they do not generate a lot of revenue on new licenses and that they should maintain the initial license fee for new doctors. **Senator Schmidt** asked how this renewal fee compares with surrounding states and if there is an intent to make further incremental changes. **Mr. Hales** indicated he does not have information on surrounding states, but Idaho is typically pretty reasonable in its fees. At this point the Board has taken this intermediate step of raising fees and he indicated the disciplinary actions are very close to being resolved. They intend to keep a close eye on expenses and hope they start trending in the right direction with this fee increase. They recognize it will take a number of years to become self sufficient.

Senator Broadsword asked if there is a potential for the Board to recoup expenses in any of the pending disciplinary cases. **Mr. Hales** responded that typically there is. He indicated that in one current case the licensee won some issues and the Board won others and the Board is not asking that the licensee reimburse fees. He added that the licensee had requested the Board reimburse him for \$200,000 in attorneys fees which was denied.

MOTION: **Senator Heider** moved, seconded by **Chairman Lodge**, that the Committee approve **Docket No. 24-1101-1101**. The motion carried by **voice vote** with **Senator Vick** voting "Nay."

DOCKET NO. 24-1301-1101 **Relating to Rules of the Physical Therapy Licensure Board (Pending).** **Mr. Hales**, on behalf of the Physical Therapy Licensure Board, advised that these rules amend the continuing education rules to allow for additional credit and courses that may be pre-approved. This change will provide more pre-approved courses to licensees for fulfillment of continuing education requirements. He requested that the Committee approve **Docket No. 24-1301-1101**.

MOTION: **Senator Schmidt** moved, seconded by **Senator Nuxoll**, that the Committee approve **Docket No. 24-1301-1101**. The motion carried by **voice vote**.

DOCKET NO. 24-1401-1101 **Relating to Rules of the State Board of Social Work Examiners (Pending).** **Mr. Hales**, on behalf of the State Board of Social Work Examiners (Board), recognized **Robert Payne**, a member of the Board, and advised that this rule sets forth the criteria to be an approved college or university and establishes requirements for an approved social work program. The rule identifies the Northwest Commission on Colleges and Universities as an accrediting body and the Council on Social Work Education as an entity that approves social work programs. He requested that the Committee approve **Docket No. 24-1401-1101**.

Senator Smyser asked if the Council on Social Work Education is a national organization. **Mr. Hales** responded that is correct. **Senator Nuxoll** asked why some colleges and universities are not accredited and if private colleges are included. **Mr. Hales** advised that it is not unusual to require that a college or university be approved by an accrediting body that is approved by the U.S. Department of Education and that private colleges are included. **Vice Chairman Broadsword** asked if this would prevent an on-line college with no physical presence from providing credentials for social work. **Mr. Hales** advised that is correct.

Senator Nuxoll asked what criteria is used for setting up a social work program. **Mr. Hales** asked to defer the question to **Mr. Payne** who advised that a university starts months in advance of accreditation. They look at curriculum, expertise of faculty, and they must go through this accreditation process every five years. He noted that at this time all the social work programs in the State of Idaho are accredited.

MOTION: **Senator Heider** moved, seconded by **Senator Vick**, that the Committee approve **Docket No. 24-1401-1101**. The motion carried by **voice vote**.

DOCKET NO. 24-1501-1101 **Relating to Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists (Pending).** **Mr. Hales**, on behalf of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists (Board), recognized Board member, **Piper Ann Field**. **Mr. Hales** advised that the Board is amending several sections of its rules to update them to current standards, to provide clarification, and to simplify licensure by endorsement. The rule updates references and definitions; provides flexibility in times of Board meetings; requires secure links for on-line supervision; requires that supervision must be provided in compliance with the ACA code of ethics for counseling supervision, evaluation, remediation, and endorsement; clarifies the ratio for supervision; requires that supervision obtained in another state must conform with the state's requirements provided they are substantially equivalent to Idaho's

requirements; and requires that interns must explicitly state that they are interns in their documentation provided to clients and advertising materials. **Mr. Hales** requested that the Committee approve **Docket No. 24-1501-1101**.

Senator Smyser asked if there is a cost to register as a supervisor and how difficult it is to meet face-to-face supervision requirements in rural areas. **Mr. Hales** advised that there is no charge and explained the requirements for supervision. He stated that secure on line supervision is available for some of the required hours when a supervisor is located a distance from the intern. **Senator Nuxoll** asked if any regulation regarding interns is being changed. **Mr. Hales** advised that the rule clarifies the definition of a Registered Intern. **Senator Schmidt** asked if there are Counselors and Marriage Therapists among the Board members. **Mr. Hales** advised there is an equal number of Counselors and Marriage Therapists and also a public member on the Board. In response to questions from **Senator Heider**, **Mr. Hales** advised that there are different codes of ethics depending upon the nature of the profession and each profession requires a study of those codes to pass a national licensing exam. He stated that once an individual becomes licensed they are obligated to fulfill annual continuing education requirements and three contact hours of that continuing education must be in ethics.

Vice Chairman Broadsword noted that **Tana Cory**, Director, Bureau of Occupational Licenses, was in the audience and thanked her for her attendance.

MOTION:

Senator Smyser moved, seconded by **Senator Schmidt**, that the Committee approve **Docket No. 24-1501-1101**. The motion carried by **voice vote**.

**DOCKET NO.
24-1601-1101**

Relating to Rules of the State Board of Dentistry (Pending Fee). **Mr. Hales**, representing the State Board of Dentistry (Board), advised that there are currently about 25 licensees in the State. Currently this Board has a \$27,000 deficit. They are cognizant of the situation and are increasing the renewal fee from \$600 to \$750 to help balance the Board's annual budget and maintain the services necessary to protect the health and safety of the public. The anticipated impact is a total positive increase of \$3,150 to the dedicated fund. He requested that the Committee approve **Docket No. 24-1601-1101**.

Senator Darrington commented that when this Board was created they agreed as a matter of record in this Committee that they were willing to pay a very high licensure rate for the privilege of licensure. The scenario described was anticipated by this Committee at that time. **Mr. Hales** agreed with his comment. **Vice Chairman Broadsword** asked if this increase will clear the Board's debt and put them in the black. **Mr. Hales** indicated that with this increase it will still take the Board about three years to get in the black, but they are trending in the right direction.

Senator Vick asked for a clarification that fees for all of the Boards goes into the same account and so if one runs a deficit, they take the money from another Board that has a surplus. **Mr. Hales** responded that is correct. **Senator Vick** asked what if the Board of Dentistry decided they did not want to raise their fees, then what is the course of action. **Mr. Hales** advised that these Boards need to be self sufficient and the Bureau of Occupational Licenses has never had that happen. The Bureau must contract with the Boards and they could refuse to contract.

MOTION:

Senator Darrington moved, seconded by **Senator Schmidt**, that the Committee approve **Docket No. 24-1601-1101**. The motion carried by **voice vote**.

**DOCKET NO.
24-1701-1101**

Relating to Rules of the State Board of Acupuncture (Pending Fee). **Mr. Hales**, on behalf of the State Board of Acupuncture (Board), advised that the 2011 Legislature passed H 46, which amended multiple sections of the Acupuncture Act, replacing the technician certificate with the acupuncture trainee permit and grandfathering those now holding the technician certificate. This rule complies with the statute and is a Pending Fee Rule because of the new classification. **Mr. Hales** explained the different license classes of acupuncturists:

- Licensed Acupuncturists - individuals who have a substantial amount of education;
- Certified Acupuncturists - individuals with advanced medical degrees;
- Technician Certificate - now being changed to Trainee Permit.

Mr. Hales requested that the Committee approve **Docket No. 24-1701-1101**.

Senator Schmidt noted that it appears from Section 200.02.e that allopathic physicians cannot become trainees. **Mr. Hales** indicated that MD's and DO's are exempt from the entire Act.

MOTION:

Senator Heider moved, seconded by **Senator Schmidt**, that the Committee approve **Docket No. 24-1701-1101**. The motion carried by **voice vote**.

**DOCKET NO.
24-1901-1101**

Relating to Rules of the Board of Examiners of Residential Care Facility Administrators (Pending). **Mr. Hales**, representing the Board of Examiners of Residential Care Facility Administrators (Board), introduced Board Member **Shirley Meyer**. **Mr. Hales** advised that the 2011 Legislature passed H 49 which revised the education and experience qualifications necessary for licensure as a Residential Care Facility Administrator. This bill also provided the Board discretion to accept other combinations of education and experience. This rule change implements the qualifications for licensure consistent with the statute. He requested that the Committee approve **Docket No. 24-1901-1101**.

MOTION:

Senator Nuxoll moved, seconded by **Senator Vick**, that the Committee approve **Docket No. 24-1901-1101**. The motion carried by **voice vote**.

**DOCKET NO.
24-2301-1101**

Relating to Rules of the Speech and Hearing Services Licensure Board (Pending). **Mr. Hales**, representing the Speech and Hearing Services Licensure Board (Board), advised that the 2011 Legislature passed H 47, which provided for licensure by endorsement and educational equivalency. This new rule implements the statute and Rule 310 provides the qualifications for licensure by endorsement. **Mr. Hales** introduced Board members **Gayle Cheney** and **Barbara Osterhoudt**, and requested the Committee approve **Docket No. 24-2301-1101**.

MOTION:

Senator Smyser moved, seconded by **Senator Nuxoll**, that the Committee approve **Docket No. 24-2301-1101**. The motion carried by **voice vote**.

**DOCKET NO.
24-0501-1101**

Relating to Rules of the Board of Drinking Water and Wastewater Professionals (Pending). **Mr. Hales**, representing the Board of Drinking Water and Wastewater Professionals (Board), introduced Board members **John R. Lee** and **Barry N. Burnell**. He advised that the Board is amending several sections of its rules to update them to be in line with current national standards and to provide clarification. He stated that over the years the Board has tried to be responsive to various concerns from the industry, such as creating license classes for very small water systems, and restricted licenses good for a particular system. In response to complaints regarding the amount of time needed to qualify for a Class III license, the Board reviewed the issues and eliminated the stair step approach to licensing.

There is one point in the rules that has brought disagreement among the industry. That disagreement is based on the educational requirements versus experience requirements. Under this proposed rule, the Board struck a compromise and reduced the amount of substitution of experience for education to a one-to-one ratio; however, the Board did set a minimum for both Class III and Class IV licensees in that they must possess at least 50 percent of the education required which cannot be substituted by experience. He stated this is a national standard and the Board feels strongly that some education is required in these advanced systems to protect public health. **Mr. Hales** reviewed the specific rule changes and requested that the Committee approve **Docket No. 24-0501-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Vice Chairman Broadsword asked if someone who has a high school diploma but no college education has been operating a system for 25 years and knows the system inside and out, would the Board make an exception for that person to operate a Class III or Class IV system. After a discussion relating to restricted licenses between **Mr. Hales** and the Committee, **Mr. Hales** asked to defer the question to Board Member **Barry Burnell**. **Mr. Burnell** advised that an existing employee at a facility can have a Class I restricted license and they can operate that facility, they just would not be able to be the responsible charge operator if the classification of that facility was a Class II or higher. They could be the responsible charge operator of a Class I or very small water system.

TESTIMONY: **Barry Burnell** spoke in support of **Docket No. 24-0501-1101**. He outlined the composition of the Board and indicated he represented DEQ on the Board. He stated The Association of Boards of Certification (ABC) is the national licensure association used by the State for licensing, that the 50 percent cap on education is a national standard, and reciprocity is important to the licensed operators in the State of Idaho. He further added that continuing education credits can be used to obtain education equivalency, with on line classes being offered by the Idaho Rural Water Association and DEQ. In response to questions he indicated that a Class I restricted license and a very small system license are both Idaho only licenses.

TESTIMONY: **Doug Amick**, an Idaho licensed operator, with the City of Greenleaf, spoke in opposition to **Docket No. 24-0501-1101, Section 375.02.c**, relating to education requirements. He stated education is not a fair exchange for experience and related how it will affect the City of Greenleaf.

TESTIMONY: **Mike Shepherd**, a licensed Class III Operator, City of Weiser, spoke in opposition to **Docket No. 24-0501-1101**. He stated he agreed with **Mr. Amick**, adding that the 50 percent education rule will negate the experience of many licensed operators.

TESTIMONY: **Richard Dees**, Deputy Director of Public Works, City of Meridian, and representing the Association of Idaho Cities, spoke in opposition to **Docket No. 24-0501-1101**. His objection was also to **Section 375.02.c**, relating to education requirements.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachments #2 through #5).

Senator Bock asked how **Mr. Dees** would suggest the Committee approach this issue. **Mr. Dees** stated the Bureau has done a good job of cleaning up the rule and if it could just strike the line at **Section 375.02.c** he would have no objection to the remainder of the rule. **Senator Schmidt** questioned what the pay rate is for operators at different levels. **Mr. Dees** advised it is about \$14.00 per hour for a Class IV and the range is pretty tight but would go down a bit for a Class I.

TESTIMONY: **Shelley Roberts**, CEO, Idaho Rural Water Association, spoke **in opposition** to **Docket 24-0501-1101, Section 375.02.c**. She advised her organization is in agreement with the previous testimony.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachments #6a, 6b, and 6c).

TESTIMONY **Bruce Evans**, representing City of Emmett and a Board member of Idaho Rural Water Association, spoke **in opposition** to **Docket No. 24-0501-1101, Section 375.02.c**. He stated he could not recommend that his community invest in additional education for seasoned operators.

Senator Smyser asked if **Mr. Evans'** opposition is only to **Section 375.02.c**. He responded yes, and added the testing requirement should satisfy the licensing. He acknowledged there is a huge responsibility in the field and safety training is required, but feels the amount of time necessary for an individual to complete two years of post high school education while working a full time job would be difficult for some older operators.

TESTIMONY: **Colby Armstrong**, a Class II operator with the City of Kuna, spoke **in opposition** to **Docket No. 24-0501-1101, Section 375.02.c**. He stated this rule would adversely impact the City of Kuna, requiring all operators to complete additional education.

Vice Chairman Broadsword asked if **Mr. Armstrong** has any post secondary education and how important it would be to him for Idaho to set rules that would allow reciprocity with other states. **Mr. Armstrong** stated reciprocity is important, but he does not feel it is the most important factor for the smaller communities.

Chairman Lodge asked if he has considered more education. **Mr. Armstrong** stated he has, but added that he is required to complete CEU credits to maintain his license and he has the required CEUs to do his job and provide safe drinking water. He stated that there are lots of ways for him to continue his education other than in a classroom.

Senator Schmidt noted that **Mr. Evans** had testified that the required educational courses are not readily available at Boise State University or the University of Idaho and asked **Ms. Roberts** if the Rural Water Users Association is working to make these courses more available. **Ms. Roberts** indicated they are interested in offering more classes, but struggling with funding. They currently offer four classes a month, charging a fee of \$100 per class, and are losing money. **Senator Schmidt** indicated he was asking if they would partner with institutions that do offer classes. **Ms. Roberts** indicated they would be interested in partnering with others.

Committee members discussed with **Mr. Burnell** what types of classes would meet the education requirements. He listed several classes in the science and engineering fields and stated each applicants education is individually reviewed by the Board. He stated that the decision to add the education requirement was one the Board struggled with, but ultimately felt it is important for the industry and the operators.

Vice Chairman Broadsword asked **Mr. Burnell** if there is a possibility the Board could sit down with the operators and perhaps come to an agreement where current licensees might be grandfathered, or eliminate Section 375.02.c from the rule altogether. **Mr. Burnell** indicated the Board has always tried to have a good relationship with the operators. They have worked together and collaborated on such things as restricted licensing and very small system licenses. If given the chance, he feels the Board could work with the operators.

TESTIMONY: **Lynn Tominaga**, representing Idaho Rural Water Users, spoke **in opposition** to **Docket 24-0501-1101, Section 375.02.c**. He indicated this rule affects large and small water user associations, and presented letters written to the Bureau during rule negotiations (see Attachments #7 and #8).

Roger Hales commented that the Board has listened to the operators and has made significant changes in this rule. They ultimately have the responsibility to make sure the operators are competent.

MOTION: **Senator Smyser** moved, seconded by **Chairman Lodge**, that the Committee approve **Docket 24-0501-1101 with the exception of Section 375.02.c**.

Chairman Lodge commented that she does understand the position of the Board and the importance of education, but she also understands how difficult this is for the small rural communities and the Board needs to work closely with those communities to make sure those people who have technical experience are able to provide the services that are needed.

Senator Bock noted he understands the problems those in the small rural communities face and does not think we can impose these education requirements on them at this time. **Senator Heider** commented that this does not affect just the smaller communities, but all cities across Idaho. **Vice Chairman Broadsword** commented that she feels the Board is trying to do what is in the best interest of the health and safety of citizens, but she feels there is room to work with these concerns.

VOTE: The motion carried by **voice vote**.

ADJOURN: **Vice Chairman Broadsword** returned the gavel to **Chairman Lodge** who thanked all those who testified and adjourned the meeting at 5:27 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

AMENDED #1 AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, January 26, 2012

SUBJECT	DESCRIPTION	PRESENTER
<u>RS21038</u>	Senate Concurrent Resolution endorsing the Idaho Alzheimer's Planning Group's efforts to create a statewide plan.	Senator Broadsword District 2
<u>27-0101-1102</u>	Relating to Rules of the Idaho State Board of Pharmacy - Chapter rewrite (Pending Fee).	Mark Johnson
<u>27-0101-1101</u>	Relating to Rules of the Idaho State Board of Pharmacy - Chapter repeal (Pending).	Mark Johnson

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge

Vice Chairman Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, January 26, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:12 p.m.

RS 21038 **Senate Concurrent Resolution endorsing the Idaho Alzheimer's Planning Group's efforts to create a statewide plan.** **Vice Chairman Broadsword** stated that a review of a similar RS that the Committee approved for printing last week revealed errors in some federal information. Those errors have been corrected and she is requesting that the Committee send to print **RS 21038** containing the corrected information, and asked that **Chairman Lodge** request on the floor that it be brought back to the Committee for a full hearing.

MOTION: **Senator Darrington** moved, seconded by **Senator Smyser**, that **RS 21038** be sent to print. The motion carried by **voice vote**.

**GAVEL
CHANGE:** **Chairman Lodge** passed the gavel to **Vice Chairman Broadsword** to conduct rules review.

**DOCKET NO. 27-0101-1102
AND
DOCKET NO. 27-0101-1101** **Relating to Rules of the Idaho State Board of Pharmacy (Pending Fee) - Chapter rewrite and (Pending) - Chapter repeal.** **Mark Johnston**, Executive Director, Idaho Board of Pharmacy, advised that he will be presented two dockets, the first Docket is an entire rewrite of the Rules of the Idaho Board of Pharmacy (Board) and the second Docket is a repeal of the current rules. He stated that in 2009 JFAC appropriated funds to hire outside legal counsel for this three-year project to promulgate new and reorganized rules to provide Board licensees and registrants, subject to regulation under the Idaho Pharmacy Act, the Uniform Controlled Substances Act, the Out-of-State Mail Service Pharmacy Act, and the Wholesale Drug Distribution Act, an updated and more comprehensive set of rules governing the practice of pharmacy in Idaho. This proposed rewrite reorganizes the Board's rules, provides a more comprehensive list of definitions and fee schedules, and provides new rules affecting the practice of pharmacy and controlled substance registrants not previously addressed. These rules have been addressed at 20 public Board meetings, Notice of Intent to Promulgate has been published, and negotiated rulemaking sessions have been held around the state.

Mr. Johnston stated the rules eliminate some fees and add some new fees, but there is an overall decrease in dedicated fund fees generated by an estimated \$4,000 per year. The rules will also result in more efficient use of staff and better inspection criteria and procedures. He reviewed for the Committee the fees being eliminated and detailed new or additional fees.

Vice Chairman Broadsword noted that the Board now has a dedicated fund balance in excess of \$1.5 Million and is working to make all fees fair for the licensees and registrants.

Mr. Johnston advised that some requirements were eliminated because of overlap with federal law and Idaho Code or simply because they were outdated. He indicated the Board would no longer be responsible for tracking Extern hours as that is done by Idaho State University. He listed reductions, including pharmacy minimum standards related to space and fixtures. He advised the new rules standardize records retention at three years and definitions are now in one place rather than scattered throughout the rules. A Waivers and Variances section will allow the Board flexibility.

Fees had also been scattered throughout the rules and the reorganization has added a comprehensive Fee Schedule so they are all in one place. Electronic secure record keeping systems are required, with grandfathering for those pharmacies not having computers. Patient counseling documentation is required and labeling must be standard. Automatic dispensing and storage systems are regulated. The Student Pharmacist regulations have been expanded and unprofessional conduct standards revised to deal with drug and alcohol abuse while at work. Pharmacy operating rules are set forth and provisions added for dealing with permanent closing of pharmacies. Retail Telepharmacy is no longer a pilot program and regulations have been expanded. The Institutional Rules Review Committee has defined hospital responsibilities and director responsibilities as well as allowed procedures in the event of a pharmacist's absence. Rules regulating prescriber drug outlets such as doctor offices are included.

Mr. Johnston stated the Board had worked with the Board of Veterinary Medicine to revamp the orders for Veterinary Drug Outlets, basically pharmacies for Vet drugs without pharmacists, requiring additional security and the use of certain forms. Although Idaho has no manufacturers at this time a section was added covering inspection and requirement to follow federal guidelines.

Mr. Johnston advised that these rules are supported by the Idaho State Pharmacy Association, the Idaho Society of Health-Systems Pharmacists, and Idaho Retail Association. He stated the only opposition to the rule comes from the Veterinary Medicine group. That group has expressed opposition to Pending Rule #204, requiring that specified data on controlled substances must be reported weekly. He stated that some of the rural vets who dispense small amounts of controlled substances are inconvenienced by the rule and do not see a benefit to it. After meeting with some of the vets and reviewing the data collected by the Board during the past nine months, although time has not allowed a formal policy to be established by the Board, he is suggesting a tentative policy that would provide a reporting exemption for those vets prescribing controlled substances not more than ten times per week.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Vice Chairman Broadsword asked **Mr. Johnston** to confirm that through policy the Board of Pharmacy will be making a change so that vets do not have to report unless they have filled at least ten prescriptions for a controlled substance that week. **Mr. Johnston** responded that is correct.

In response to questions from **Senator Schmidt**, **Mr. Johnston** advised that the Idaho Hospital Association has been a part of negotiations and is supporting the rule. It is also his understanding that the Idaho Health Systems Pharmacists have discussed the rule with the Idaho Hospital Association but he has not personally participated in those discussions. He stated that a prescription by definition must be filled by a pharmacy, and that when a prescriber dispenses a drug in a labeled vial, this would properly be referred to as a dispensing and, if there are several pills in a bottle, that is one dispensing. **Chairman Lodge** asked how this would apply if she were to pick up several syringes of medication for new born calves. **Mr. Johnston** responded that would be one dispensing; however, it would be unlikely that those syringes would contain a controlled substance.

TESTIMONY:

Dr. Les Stone, President, Idaho Veterinary Medical Association, from Idaho Falls, spoke **in opposition** to **Docket No. 27-0101-1102, Section 204**. He related that he has a small veterinary practice providing a spay and neuter program for pets of financially challenged people in his area. He indicated he often does more than 12 cases in a week and the requirement for electronic reporting is a hardship on his practice. He requested an exemption from the Board and received a response that this would be addressed at the next Board meeting. In the meantime he was instructed to continue the use of the paper reporting form, which he stated is not designed for veterinarians and he feels the data requested is generally useless. He further stated that the amount of controlled substance drugs dispensed by veterinarians is small and that is not where the abuse problem lies.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

Vice Chairman Broadsword commented that a veterinarian recently dispensed for her dog 30 units of the same drug she had been given for pain by her dentist, so there is potential for abuse; however, she would agree that pain medication prescribed for a cat is not likely to be abused. What the Board is trying to get at is those drugs that can be sold on the street. At her request **Dr. Stone** listed some controlled substance drugs used by veterinarians.

In response to a question from **Senator Schmidt** related to the abuse of Fentanyl patches, **Dr. Stone** advised that Fentanyl patches are most generally used after orthopedic surgery and one patch is generally placed on the animal. **Vice Chairman Broadsword** asked if veterinarians are required to keep track of controlled substance dispensing for their DEA license. **Dr. Stone** responded that there is no separate report beyond the usual tracking.

TESTIMONY:

Dr. Gary Lewis, owner of a veterinary clinic in Twin Falls and Chairman of the Board of the Idaho Veterinary Medical Association, spoke **in opposition** to **Docket No. 27-0101-1102, Subsection 204**. He commented that this is an unnecessary cost as there is a lack of evidence that drug diversion is a problem in veterinary medicine. He further stated that a vet-client-patient relationship (VCPR) must exist before prescribing a controlled substance and if a VCPR is honored, it greatly reduces the possibility of diversion of a controlled substance.

Vice Chairman Broadsword pointed out that the rule does not apply just to veterinary medicine and if the Committee rejects the rule, the old rules would remain in place. So, the solution would be to work with the Board to try and fix the problem through policy.

Senator Darrington commented that this Docket is a marvelous work that has been undertaken over a long period of time and the only part of the rule there seems to be any question about is the requirement that veterinarians report controlled substance dispensings.

The committee discussed at length the effect of these rules on veterinarians, and in particular, small rural practices. They discussed the burden of reporting placed upon small practices; the fact that the reporting form is not relevant to veterinary practice; the ratio of controlled substances dispensed by veterinarians versus physicians; and the options available for exempting the small practices, including writing a rule to exempt veterinarians, and establishing a Board policy to exempt small veterinary clinics dispensing controlled substances not more than ten times in a week.

Mr. Johnston advised that the majority of states now share prescription drug abuse information through a federal reporting system. He stated that prescription drug abuse is now a bigger issue than methamphetamine, cocaine, and heroine combined. He did agree that veterinarians dispense only a small portion of controlled substance drugs compared to prescriptions issued for humans. He stated that pending rules have been in effect for nine months and during that time the Board has listened to the concerns of the people and made adjustments through policy. He noted that the reporting requirement is not a burden on the people the Board wants to get information from at this point, and is proposing by policy to exempt out all veterinarians who dispense controlled substances not more than ten times in a week. The rules provide for an exemption by the Board and if a veterinarian dispenses a controlled substance more than ten times a week, but those dispensings are small doses, they can request an exemption.

Vice Chairman Broadsword asked if a statute that exempted the veterinarians of the state from having to report to the Board would be something the Board would welcome or object to. **Mr. Johnston** indicated he would have to discuss that with the Board; his feeling is they would not oppose it, but would not support it either.

TESTIMONY:

Dr. Rena Carlson, Pocatello, an Idaho delegate to the American Veterinary Association, spoke in opposition to **Docket 27-0101-1102**. She agreed with the previous testimony and indicated veterinarians play a miniscule role in controlled substance dispensings and the information they are being asked to report is not relevant. She stated that 13 states now exempt Veterinarians from reporting controlled substance dispensings.

Vice Chairman Broadsword asked if her association would be willing to sit down with **Mr. Johnston** and try to come up with a solution that meets the needs of all and addresses public safety. **Dr. Carlson** responded that is something they want to do. When asked specifically by **Senator Darrington** if she would be comfortable with the policy proposed by **Mr. Johnston** to exempt those veterinarians dispensing controlled substances not more than ten times in a week, **Dr. Carlson** stated that her organization would probably disagree, as they do not feel the veterinarian population as a whole adds value to the intent of Subsection 204, and they would prefer an exemption of all veterinarians. **Senator Broadsword** pointed out that if Subsection 204 is rejected it would affect all pharmacies, not just veterinarians.

Mr. Johnston advised that if the entire docket is rejected it will not help the veterinarians with this issue as the current rule contains the same language. He further stated that there are two reasons why we have this rule. One is to assist prescribers and pharmacists in prescribing and filling prescriptions, and the other is to address any illegal activity. It isn't just diversion on the part of the animal owner that might be of concern, the Board has diciplined 28 practitioners—not just pharmacists—in the last 12 months who were guilty of diversion. The Board can tell by the new rules when an abnormal quantity of product is ordered into a small veterinary clinic; they don't have to know what the dispensings are to know that is something they should take a look at. When a large quantity is ordered into a veterinary hospital which is also dispensing a large quantity, the Board really needs to know what the dispensing information is to see if not just the veterinarian but any of the lay personnel are involved in diversion. He agrees the information from the small veterinarians is not so important and if the Board collects from the big

dispensers, that is all they need to take a look at. If data is collected for a year and it turns out there is not really a problem, the Board has the flexibility to make a change through policy. Striking the rule does not solve the problem. Having it in statute might solve the problem; but if we can all do it collectively, and he feels the parties have shown that they can, it works.

Senator Schmidt noted that diversion in his opinion is the most important issue and diversion is truly a function of numbers, so we need to know the numbers. It appears that prescriptions for humans is much greater than for animals. If the threshold is large dispensing hospitals who are already computerized and the process for them to report is simple, then we can come to a simple solution.

MOTION:

Senator Bock moved, seconded by **Chairman Lodge**, that the Committee approve **Docket No. 27-0101-1102**, chapter rewrite, and **Docket No. 27-0101-1101**, chapter repeal.

Chairman Lodge commented that she is confident **Mr. Johnston** will work with the veterinarians to make sure Board policy is implemented to help the small veterinarians. She thanked **Mr. Johnston** and others involved for the hard work in rewriting these rules. **Senator Bock** also expressed confidence that **Mr. Johnston** will provide a solution through Board Policy. **Senator Darrington** spoke in support of the motion stating that veterinarians should be careful to comply with the reporting requirements until they are formally advised of a policy change by the Board. **Vice Chairman Broadsword** noted that it is good that the changes that need to be made can be made through policy.

Chairman Lodge requested that the Board of Pharmacy inform the Committee when the policy has been formally changed.

Senator Heider commented that the way the rule is written does not work for those in veterinary medicine and without the Committee saying no to this rule change, the Board of Pharmacy is under no official obligation to make changes. He therefore will be voting against the motion. **Senator Nuxoll** stated she agrees with **Senator Heider's** comments.

Vice Chairman Broadsword stated that she has every confidence that when a rule leaves here and the agency has agreed to work on it and that is set forth in the minutes, they will comply with the direction given by the Committee.

VOTE:

The motion to approve **Docket No. 27-0101-1102** and **Docket No. 27-0101-1101** passed by voice vote, with **Senators Heider** and **Nuxoll** voting "Nay."

**GAVEL
CHANGE:**

Vice Chairman Broadsword acknowledged Idaho State University pharmacy students in attendance and welcomed them. She returned the gavel to **Chairman Lodge**.

ADJOURN:

Chairman Lodge thanked **Vice Chairman Broadsword** for a good job of guiding the Committee through rule changes. She announced that Thursday, February 2, the Committee will be touring the Idaho State Dental facility in Meridian and bus transportation will be provided. The meeting was adjourned at 5:07 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

**AMENDED #1 AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, January 30, 2012**

SUBJECT	DESCRIPTION	PRESENTER
DOCKET NO. 16-0310-1104 <u>VOTE ONLY</u>	Rules Relating to Medicaid Enhanced Plan Benefits - Regarding nursing facilities and intermediate care facilities for people with intellectual disabilities.	Sheila Pugatch
RS20803C1	Relating to Idaho Nurse Practice Act.	Sandra Evans
PRESENTATION	Medicaid Readiness	Director Richard Armstrong
MINUTE APPROVAL	Approval of minutes of the January 12, 2012 Meeting.	Senator Nuxoll, Senator Bock
MINUTE APPROVAL	Approval of minutes of the January 16, 2012 Meeting.	Senator Vick, Senator Schmidt

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge
Vice Chairman Broadsword
Sen Darrington
Sen Smyser
Sen Heider

Sen Vick
Sen Nuxoll
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken
Room: WW48
Phone: (208) 332-1319
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, January 30, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

ABSENT/ EXCUSED: Chairman Lodge

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Vice Chairman Broadsword** called the meeting to order at 3:05 p.m. and announced she would be chairing the meeting today due to the illness of **Chairman Lodge**. She reminded the Committee a vote had been postponed on **Docket No. 16-0310-1104** and that would be the first item on the agenda.

DOCKET NO. 16-0310-1104 VOTE ONLY **Rules Relating to Medicaid Enhanced Plan Benefits (Pending). Sheila Pugatch**, Principal Financial Specialist, Division of Medicaid, Department of Health and Welfare (Department), advised that the Department agrees with the testimony of the providers that there is an opportunity to partner with them to create reimbursement rules next year that take into consideration all aspects of reimbursements which include access, efficiency and quality of services delivered. The Department recommends either **Docket 16-0310-1104** be approved as written, or be approved with the deletion of the following sections: 119.02.b, 119.03, 140.08.b, 140.09, 659.01.b, 659.02, 706.04, 706.05, 736.09, and 736.10.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Vice Chairman Broadsword noted that the parties had met and decided there is more work to do and agreed to remove all of the listed sections. **Ms. Pugatch** stated that is correct. **Senator Darrington** asked what happened with this docket in the House. **Ms. Pugatch** indicated she would be presenting in the House next week and would be advising them of the Department's agreement to reject the listed sections. **Senator Schmidt** commented that it looks like we are deleting all rules that have to do with reimbursement and asked how the department will function regarding reimbursement without those rules in place. **Ms. Pugatch** advised that reimbursement methodology is in the State Plan and the Department will continue to follow the current methodology.

Senator Heider commented that the policy to disenroll a provider who does not respond to a cost survey seems very punitive and he does not view it as a fair and honest policy. He asked if it is the Department's intention to do away with that policy completely in a rewrite. **Ms. Pugatch** indicated that the Department will reconsider that policy in their rewrite, and advised the Department does have that procedure in the pharmacy survey process. She further noted that the rule says the Department can disenroll a provider for failure to respond to a survey, but it has not done so to date. She stated the Department is willing to work with the providers to make sure that the process is fair and equitable for both the Department and the provider. **Senator Heider** noted there were providers in the audience and asked if one could speak regarding the Department's agreement to reject the listed subsections. **Vice Chairman Broadsword** indicated she would allow one person to speak on behalf of the providers.

TESTIMONY: **Katherine Hansen**, Executive Director, Community Partnerships of Idaho, Inc., spoke on behalf of the providers. She stated they have been corresponding with the Department by email and have a conference scheduled tomorrow. She indicated they recommended deleting a sentence from one of those subsections in each of the references mentioned. The Department indicated that was not possible and they would need to remove the entire section. Providers are concerned that the reimbursement methodology is not in statute and once it is removed from rule there will not be any reference to the methodology that was adopted in 2005. Therefore the recommendation of the provider association would be to not strike the listed subsections.

Vice Chairman Broadsword asked **Paul Leary**, Administrator, Division of Medicaid, Department of Health and Welfare (Department), to address **Ms. Hansen's** remarks. **Mr. Leary** indicated the State Plan, which governs the Medicaid program, has all methodology identified within that Plan. In order for the Department to change that they would have to amend that State Plan and in order to get the federal 70 percent funding, it would have to be approved by CMS.

MOTION: **Senator Darrington** moved, seconded by **Senator Bock**, that the Committee approve **Docket No. 16-0310-1104** with the exception of sections 119.02.b, 119.03, 140.08.b, 140.09, 659.01.b, 659.02, 706.04, 706.05, 736.09, and 736.10.

Senator Darrington requested that the minutes reflect the Department's representation that payment will continue to go on for providers through reimbursement methodology identified in the State Plan and that the Department will continue to work with the providers through negotiated rulemaking. **Vice Chairman Broadsword** reminded the Committee that a lot of testimony against the cost survey was previously presented by providers and this motion is in accordance with that testimony.

VOTE: The motion carried by **voice vote**.

RS 20803C1 **Relating to Idaho Nurse Practice Act.** **Sandra Evans**, Executive Director, Idaho Board of Nursing, advised that in 2008 the national Consensus Model for Advance Practice Registered Nurse Regulation was introduced to establish national standards for the uniform regulation of APRNs in all states. The Idaho Board of Nursing endorsed the model in 2008 and this legislation is proposed to come into compliance with concepts established in the model. The legislation will refine titles, change the membership of the current Board of Nursing APRN Advisory Committee and create a statutory framework for identifying by rule educational requirement for licensure, criteria for educational programs and grandfathering of advanced practice nurses currently licensed in Idaho.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

MOTION: **Senator Smyser** moved, seconded by **Senator Heider**, that the Committee send **RS 20803C1** to print. The motion carried by **voice vote**.

PRESENTATION **Richard M. Armstrong**, Director, Department of Health and Welfare (Department), provided the Committee with an update on how Medicaid is being impacted by the Patient Protection & Affordable Care Act (Act) and the Department's approach to working toward their funding. The Act was signed into law on March 23, 2010, and the Centers for Medicare and Medicaid Services (CMS) has proposed rules which are expected to be final in the Spring of 2012, but will not be effective until January 1, 2014..

He summarized the impact of the rule changes and stated that nearly every aspect of Medicaid eligibility will have to change. This will not only affect the IBES eligibility system, but will require modifications to the MMIS system. The Department has less than 23 months to make these changes.

Director Armstrong advised that the majority of the costs for this project will be spent to modify the current IBES system. He reviewed the history of that system and stated the estimated cost of modification is approximately \$23.1 million. The Department will have to invest about \$4.5 million in the MMIS system to ensure the interface between the eligibility system and the payment system work correctly. Additional costs related to infrastructure will be approximately \$7.2 million. This will allow the Department to provide 24 hour service and implement a disaster recovery plan. The cost for the Department to meet minimum compliance requirements is estimated at \$34.8 million. With a 90/10 match rate, that requires \$3.5 million in state funds and \$31.3 Million in federal funds.

Director Armstrong stated the Department must be prepared to meet Medicaid compliance requirements to protect the federal match and will also use this as an opportunity to improve Idaho's Medicaid System. It must also be cautious that it does not implement certain aspects too early as it waits for critical questions to be answered and decisions to be made around how Idaho will approach these new regulations.

He advised that the project would be structured in three phases. The first phase will focus on modernization. The main part of this phase is that the improvements the Department will make to its technology will benefit all eligibility programs. This phase will help solve some immediate problems and gaps the Department continues to struggle with in the current Medicaid system and this is all done without regard to what happens with the implementation of the Act. The estimated cost of this phase is about \$22.7 Million.

The second phase of the project will focus on all eligibility rule changes, income calculations and expansion efforts required to be prepared for the 2014 implementation. Medicaid expansion requires extending eligibility to all adults under the age of 65 at or below 133 percent of the Federal Poverty Level (FPL) and removes the asset limits for all adults and children who are nondisabled and elderly. The Department anticipates at least 100,000 new participants in Medicaid with this eligibility change and purposely placed addressing this in plan as phase two to allow time for a possible resolution of the decision pending with the Supreme Court. The estimated cost of this phase is about \$9 Million.

The final phase of Medicaid Readiness will meet requirements to connect to an exchange. This connection ensures data and information can be shared back and forth between our Medicaid system and the exchange that Idaho eventually decides to use. This phase is purposely placed at the end of the 23 month project to ensure decisions related to Idaho's approach to an exchange are resolved and the money not spent building these connections until more information is available. The estimated cost of this phase is \$3.1 Million

Director Armstrong advised that In the end Idaho will be prepared to meet new federal requirements, minimizing the risk of having an overwhelmed workforce, unpredicted budget impacts, and unprepared automated systems in 2014.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

In response to Committee questions, **Director Armstrong** indicated that whether or not Idaho implements the Act, the \$22.7 Million estimated for phase one is needed to update the current system. He explained that IBES is an acronym for Idaho Benefit Eligibility System, which is the system used today to determine eligibility of all welfare programs. He stated that even if the Supreme Court throws out the mandate for expansion, this upgrades Idaho's capacity at a 90/10 cost share. He explained the different cost share programs of the federal government and indicated that because this Act entitles adults under age 65 without children who are not disabled to Medicaid coverage, it is referred to as the expansion part of the Act. The federal government recognized this impact and agreed that they would pay 100% of the newly eligible expansion on the benefits side; however it is anticipated that there will be others who do not fall into the newly eligible category who will qualify for benefits and thus the state general fund will have some costs associated with the new population beginning in 2014. He advised that the 100% funding will gradually decline until it reaches the current Idaho reimbursement of 70/30.

Director Armstrong further advised that Idaho has always been compliant as a Medicaid administrator for CMS and this Medicaid Readiness project is so important because it is now a CMS rule. It is absolutely critical that the project is completed on time and with accuracy. He stated that the \$3.5 Million state share of funding is within the Governor's recommendation in this year's budget.

With regard to questions related to the online customer portal, **Director Armstrong** indicated the customer is the citizen who believes that they may be eligible for Medicaid or for some other subsidy. It will allow customers to view case information, report changes, complete re-evaluations, and eventually submit applications on line. It must also have the capability of responding to someone who has become ineligible because of new employment but may be eligible to purchase insurance through the exchange. This is a national secure hub that is being created; it will move across all boundaries, and will make fraud more difficult. The Department will be able to access other federal agency databases to verify citizenship, income, and residence. If any of those facts have contradictions, then the Department stops that process and moves to a manual fact finding mode. This will prevent someone who lives on the border from applying for services in both states.

Vice Chairman Broadsword commented that this is a daunting task and the Department has done a good job in its approach to the project. She complemented the Director for his leadership and the Department staff for the good work they do.

**MINUTE
APPROVAL**

Senator Nuxoll moved, seconded by **Senator Bock**, that the minutes of the January 12, 2012 meeting be approved. The motion carried by **voice vote**.

**MINUTES
APPROVAL**

Senator Schmidt moved, seconded by **Senator Vick**, that the minutes of the January 16, 2012 meeting be approved. The motion carried by **voice vote**.

ADJOURN

Vice Chairman Broadsword announced that the Committee would not be meeting on January 31st and reminded members the Committee will be touring the Idaho State Dental Facility in Meridian, with transportation provided. The meeting was adjourned at 4:05 p.m.

Senator Broadsword
Vice Chairman

Lois Bencken
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, February 01, 2012

SUBJECT	DESCRIPTION	PRESENTER
MINUTE APPROVAL	Approval of minutes of the January 19, 2012 meeting	Senator Smyser, Senator Bock
RS20781	Relating to Idaho State Board of Medicine and the Dietetic Licensure Board.	Nancy Kerr
RS20782	Relating to Idaho State Board of Medicine and the Board of Athletic Trainers.	Nancy Kerr
RS20804	Relating to Idaho State Board of Medicine and Respiratory Care Licensure Board.	Nancy Kerr
RS20769	Relating to Department of Health & Welfare - Advertising and Placing Children for Adoption Without a License	Cameron Guiland
RS20794	Relating to Department of Health & Welfare - Liability of Legal Guardians	Rob Luce
RS20841	Relating to Department of Health & Welfare - Adoption of Children	Shirley Alexander

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge

Vice Chairman Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken

Room: WW48

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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, February 01, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:00 p.m. and welcomed those in attendance.

MOTION: **Senator Smyser** moved, seconded by **Senator Nuxoll**, that the minutes for January 19, 2012 be approved by the Committee. The motion carried by **voice vote**.

RS 20781 **Relating to Idaho State Board of Medicine and the Dietetic Licensure Board.** **Nancy Kerr**, Executive Director, Idaho Board of Medicine, stated that this proposed legislation will remove members of the Dietetic Licensure Board from the Public Employees Retirement System of Idaho (PERSI) by changing the reference in Idaho Code from compensation to honorarium. This change will allow members to avoid possible tax implications since membership in a qualified plan, such as PERSI, limits participation in some retirement and personal IRA plans. **Ms. Kerr** requested that **RS 20781** be sent to print.

MOTION: **Vice Chairman Broadsword** moved, seconded by **Senator Nuxoll**, that **RS 20781** be sent to print. The motion carried by **voice vote**.

RS 20782 **Relating to Idaho State Board of Medicine and the Board of Athletic Trainers.** **Ms. Kerr** stated that this legislation will remove members of the Board of Athletic Trainers from PERSI for the same reasons set forth in her presentation of RS 20781. She requested that the Committee send **RS 20782** to print.

Senator Nuxoll moved, seconded by **Senator Vick**, that **RS 20782** be sent to print. The motion carried by **voice vote**.

RS 20804 **Relating to Idaho State Board of Medicine and Respiratory Care Licensure Board.** **Ms. Kerr** stated that this legislation will remove members of the Respiratory Care Licensure Board from PERSI for the same reasons set forth in her presentation of RS 20781. She requested that **RS 20804** be sent to print.

MOTION: **Senator Smyser** moved, seconded by **Vice Chairman Broadsword**, that **RS 20804** be sent to print. The motion carried by **voice vote**.

Vice Chairman Broadsword asked if it would be necessary to have a hearing on these three RS's. **Chairman Lodge** deferred the question to **Senator Darrington**, who advised the answer is, "no," but the better answer is that we ought to have it come back with the printed bill and say the same thing and then we go to the floor with it and it is a lot less messy for the office of the Secretary of the Senate and Committee Secretary.

RS 20769

Relating to Department of Health & Welfare - Advertising and Placing Children for Adoption Without a License. **Cameron Gilliland**, Program Bureau Chief, Division of Family and Community Services, Department of Health and Welfare (Department). **Mr. Gilliland** advised that unlike other licensing statutory provisions, Idaho Code does not currently impose any sanction, fine or criminal penalty in the event an unlicensed person or entity advertises or performs unlicensed adoption services in Idaho. This legislation would align adoption services with other licensing provisions and make it a misdemeanor to advertise or perform adoption services in Idaho without a license. The penalty for violation is set at \$300 per day of continuing violation. In addition, this legislation clarifies the definition of "advertisement" to better reflect current methods of advertising. **Mr. Gilliland** requested that the Committee send **RS 20769** to print.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Senator Schmidt commented that he knew of situations in which physicians have delivered infants of mothers who did not want to keep the child and who had personally contacted people to adopt the child. He asked if that physician would be violating the law. **Mr. Gilliland** responded that the physician would not be violating the law if a lawyer is handling the adoption.

Responding to questions from **Senator Vick**, **Mr. Gilliland** advised that the problem of agencies not licensed in Idaho advertising and placing adoptions, although difficult to track, is not a common problem. However, when you Google "adoption in Idaho," the first three or four listings are adoption agencies from outside the state, so it is somewhat of a problem and this legislation would prevent problems in the future. He stated that there is no penalty for a birth or adoptive parent who might be unaware of this legislation. **Mr. Gilliland** further advised that adoption agencies who are licensed in Idaho will occasionally take this problem to law enforcement and are advised they are unable to do anything because there is no penalty. He believes the Department does not intend to be adoption police, but will approach this on a "catch as catch can" basis. There are currently 29 states with similar statutes and Idaho will be added to that list so unlicensed agencies should take notice. This legislation does not prevent these agencies from working in Idaho, it just requires that they associate with someone licensed in Idaho.

MOTION: **Vice Chairman Broadsword** moved, seconded by **Senator Schmidt**, to send **RS 20769** to print. The motion carried by **voice vote**.

RS 20794

Relating to Department of Health and Welfare - Liability of Legal Guardians. **Robert Luce**, Administrator, Division of Family and Community Services, Department of Health and Welfare (Department), advised that the purpose of this legislation is to resolve apparent conflicts in the statute and clarify that, while a guardian with physical and legal custody of a ward may be held financially liable for his or her failure to supervise a ward, guardians are not financially liable to third persons for acts of the ward by reason of the parental relationship. He stated that this conflict came to light with legislation enacted during the 2011 session and a search of the Code found more than ten statutes that seemingly conflict with the Probate Code which states that a guardian is not legally obligated to provide from his own funds for the ward and is not financially liable to third persons by reason of the parental relationship for acts of the ward. He briefly discussed what the implications of recruiting guardians might be if a ward's negligence, in legal terms, was imputed to the guardian and requested that the Committee send **RS 20794** to print.

Senator Darrington commented that he did not recall the details of the 2011 legislation on this issue, but the point **Mr. Luce** is making does make sense. **Senator Nuxoll** asked if "guardian" and "legal guardian" are one and the same and

if so, and the guardian is not responsible, why is it called "legal guardian." **Mr. Luce** advised that the terms are one and the same and in most instances guardianship occurs through a court proceeding. However, the statute does allow for a six-month temporary guardianship that people can enter into between themselves with a notary. **Senator Vick** commented that if legal guardians are no longer liable, it would appear that taxpayers would be liable. **Mr. Luce** noted that when this was brought to the attention of the courts, their reaction was that we do need to fix this but they were not aware of judges entering orders against guardians and making them pay. He stated the phrase in question talks about liability of the parents and inserts guardians, legal guardian, or other persons legally responsible, so there are other payers out there; it wouldn't necessarily default to taxpayers.

MOTION: **Senator Darrington** moved, seconded by **Vice Chairman Broadsword** that **RS 20794** be sent to print. The motion carried by **voice vote**.

RS 20841 **Relating to Department of Health & Welfare - Adoption of Children.** **Shirley Alexander**, Child Welfare Bureau Chief, Division of Family and Community Services, Department of Health and Welfare (Department), advised that **RS 20841** would, through written contact agreements, provide a method for biological parents and siblings to maintain contact and communication with adoptees, who are within the foster care system, following termination of parental rights. Some biological parents may be more willing to voluntarily terminate parental rights if they have the ability to contact and communicate with a child following termination of parental rights. According to the Adoption Statute children over the age of 12 have to consent to adoption. As with their biological parents, minor children over the age of 12 may be more willing to consent to a prospective adoption if they have the ability to contact and communicate with siblings or biological parents following termination of parental rights. If the parties do not abide by the terms of the agreement, it does not impact the termination of parental rights or adoption; both would be final and irrevocable. **Ms. Alexander** emphasized that this proposed legislation does not apply to private adoption, only to those children and youth in the foster care system. She requested that the Committee send **RS 20841** to print.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

Senator Darrington asked **Ms. Alexander** if this will lead to open adoption. **Ms. Alexander** responded that this would, in effect, create open adoption for those youth within the foster care system, and that the amount of contact would be negotiated and agreed upon between the biological and adoptive parents; the adoptive parents, however, would always be the guardians.

MOTION: **Senator Heider** moved, seconded by **Senator Nuxoll**, that **RS 20841** be sent to print. The motion carried by **voice vote**.

Chairman Lodge thanked the presenters and announced that on Thursday, the Committee would meet around 2:45 p.m. for a tour of the ISU dental lab.

ADJOURN: **Chairman Lodge** adjourned the meeting at 3:32 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

Diana Page
Assistant Secretary

**AMENDED #1 AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, February 06, 2012**

SUBJECT	DESCRIPTION	PRESENTER
<u>RS21077C1</u>	Relating to Regulation and Licensure of Massage Therapists	Suzanne Budge
<u>S 1255</u>	Relating to Records Exempt From Disclosure - Allowing Department of Health & Welfare to disclose information vital to the health and well being of children who are under the jurisdiction of child protective services.	Senator Tim Corder, District 22
<u>RS20761C1</u>	Relating to Federal Food Stamps	Steve Bellomy
<u>RS21030</u>	Relating to the Medical Consent and Natural Death Act	Robert L. Aldridge
PRESENTATION	Responding to Community Needs Differently	Lois Tupy
MINUTES APPROVAL	Approval of Minutes of the meeting of January 23, 2012	Senators Darrington and Schmidt

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge

Vice Chairman Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken

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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, February 06, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:05 p.m.

RS 20771C1 **Relating to Regulation and Licensure of Massage Therapists. Senator Hammond** provided opening remarks regarding **RS 20771C1**, and introduced **Suzanne Budge**, presenting the RS on behalf of the American Massage Therapy Association, Idaho Chapter who, she indicated, are all volunteers. The purpose of this legislation is to provide a process for licensing massage therapists. Massage therapy has become an accepted part of conventional medicine to assist patients working to improve their health or recovering from an injury or medical procedure. Currently, anyone may advertise themselves as a massage therapist regardless of their level of training or lack thereof. Requiring a license of professional and trained massage therapists will insure that citizens seeking this form of therapy will receive appropriate care. Ms. Budge advised this bill is essentially a model bill, elements of which are largely used as part of the licensing process in 43 states, including Idaho's surrounding states with the sole exception of Wyoming. **Ms. Budge** requested that **RS 20771C1** be sent to print.

Senator Darrington asked if most of the massage therapy schools that supply the massage therapists active in Idaho are certified by some accrediting agency. **Ms. Budge** responded that she believes the answer is "yes." In looking at other states and speaking with practitioners, there is a very close working relationship with the colleges and private schools, and they are quite attentive to those credentialing issues.

Vice Chairman Broadsword commented that the Board of Occupational Licensing moved the compensation of several board members from one designation to another so that they would not be subject to PERSI and asked if this legislation is in keeping with what the Board of Occupational Licensing is doing for other boards. **Ms. Budge** replied that she did not know the answer to that; however, the Board of Occupational Licensing did do a "triple scrub-down" of this legislation. She promised to investigate the answer to the question and bring an answer back to the Committee.

MOTION: **Vice Chairman Broadsword** moved, seconded by **Senator Schmidt**, that **RS 20771C1** be sent to print. The motion carried by **voice vote**.

S 1255 **Relating to Records Exempt from Disclosure. Senator Corder** advised that under current law, information vital to the health and well being of children, even medical information, routinely is not shared, and in many cases may not be shared, from one foster parent to another or by other decision makers. He related experiences he has encountered with foster parents who have been placed in difficult situations when vital information does not follow the child.

Because of these concerns, **Senator Corder** requested the assistance of **Rob Luce**, Administrator, Division of Family and Community Services, Department of Health and Welfare (Department) in drafting this legislation which will allow the Department to better define, in rule, the information that will be disclosed and made available to foster parents, adoptive parents, guardians, and other legally responsible parties.

Senator Corder stated that the Department needs flexibility to deal with any situation in foster homes and this one simple addition to the statute will give the Department that flexibility. As conditions change the Department can adjust, by rule, those things that are necessary to protect the children in foster care. He pointed out that this will give the Department a lot of authority, but ultimately this Committee will review and approve or reject any rule presented by the Department. Should the Committee approve a rule that does not work, he noted that the Idaho Legislature has a unique right to review any rule at any time and reject it, and this process is much faster than changing statute.

Senator Darrington stated that he had no problem giving the Department rulemaking authority and commented that it would be almost impossible to put into statute what would be necessary to enact the intent of this proposal. He asked if there are any federal prohibitions with regard to how far we can go with rulemaking authority in the release of information, to whom, how much, and so forth. **Senator Corder** indicated he believes that federal HIPAA law has been pushed upon us and, out of fear on the side of the Department, has pushed it to protect things that perhaps weren't intended. He continued that one of the things that **Mr. Luce** and he discussed was their belief that this simple sentence in the proposed legislation will give the Department the ability to push back against those intrusions into states' rights issues.

Senator Darrington indicated his agreement with **Senator Corder's** remarks related to federal laws and noted it is his feeling that rules are frequently promulgated which are questionable with regard to the legislation passed by Congress. He stated the Department needs the flexibility that a rule will provide, and promised that the Department would draft something that is fair and balanced, on a "need to know basis" while pushing the envelope. All rules will go through the public comment process and have stakeholders involved before coming back to the Committee for consideration. **Mr. Luce** requested that **S 1255** be approved by the Committee.

Senator Corder introduced **Mr. Luce** who indicated it had been his intention to write a "book" of legislation to correct this situation in statute when he came across the phrase, "unless otherwise provided by agency rule," in the Public Records Act in Idaho Code. He indicated we are talking about weighing the rights of privacy versus a need to know, and there are a number of state statutes as well as federal statutes on what we can do and what we cannot do. He related experiences of the Department when they are unable to share vital information with partners such as the Ada County Prosecuting Attorney and frustrations of the Department when they are unable to pass along vital information.

Senator Nuxoll commented that it is the Committee's job to avoid as much potential abuse as possible and agreed that something needs to be done but feels this legislation is just removing a blanket public records exemption and giving it to the Department. She asked if the Department had looked into the practices of other states. **Mr. Luce** responded that they had looked at other states and there are multiple ways of handling this. Some states have pages of law and some are utilizing the rules process as he proposes here.

Senator Vick asked what process the Department would go through to change a rule while the Legislature is not in session and how they would adjust the rule for the next unexpected records request. **Mr. Luce** responded that if a question of health or safety is involved, the Department could utilize the temporary rule process when the Legislature is not in session but he does not believe they would do that because of the need for a strong balance between the right to privacy and "need to know." Putting together a draft rule and holding multiple meetings across the state, with various stakeholders to discuss the issues, will produce a rule that most would agree upon before coming back to the Committee to complete the rulemaking process next year. He advised It is very unlikely for the Department to want to draft a rule for a statute that is based upon one specific instance, rather they will look for a pattern in order to avoid a knee-jerk reaction.

Senator Schmidt asked if Ada county uses multi-disciplinary teams for investigation of child abuse. **Mr. Luce** replied that they do. **Senator Schmidt** asked why the process of setting up multi-disciplinary teams and making arrangements for sharing communications between agencies did not work in the instance he related with the Prosecuting Attorney's office. **Mr. Luce** advised that particular case was outside of the statutory authority of that rule.

Senator Smyser asked if there is another way, a middle ground, to accomplish the needed change without giving the Department full authority. **Mr. Luce** advised that the only way would be to substantially revise all code sections dealing with this issue. He stated that this is 100 percent a policy call by the Legislature on how we go down this road – whether by rule or by statute. The Legislature will have final approval in either instance.

Senator Bock commented that we do have a middle ground. Idaho is one of the few states in the country in which the Legislature is given the opportunity to review rules changes. He stated that, although he shares concern about giving over authority to the Department, the Committee will have a chance to debate those rules, which seems to be the middle ground. **Senator Darrington** expressed that Idaho may be the only state in the Union that has the right to reject rules by Resolution. This power was given by the Idaho Supreme Court. He stated that he is not troubled at all by giving the Department rulemaking authority; he believes the difficulty and sensitive nature of the issues involved will cause them to walk a fine line. **Senator Darrington** stated that he would hesitate to put this in statute as the rules are much more fluid than statute.

MOTION:

Vice Chairman Broadsword expressed her agreement with **Senators Bock** and **Darrington** and moved, seconded by **Senator Heider**, that **S 1255** be sent to the Floor with a do pass recommendation. The motion carried by **voice vote**, with **Senator Nuxoll** requesting that she be recorded as voting "nay."

Senator Schmidt commented that what has been going on has not been good care, and we cannot assume that good care will happen without careful oversight just because we are changing the law. That is the intent, and we must keep in mind the fact that we need to provide appropriate care for those people under our authority. **Senator Bock** added that we want people who are in the difficult position of needing care from the health and welfare system to have faith in the system. In the long term, we need to think of ways in which we can improve the system so that people who do report issues feel like something was actually done. **Senator Smyser** commented that, working in schools, she has run into the situation where the Department cannot give out information. She stated that there is a fine line with information being shared in regards to how that can affect families, but keeping the lines of communication open is vital.

Relating to Federal Food Stamps. Steve Bellomy, Department of Health and Welfare (Department), stated that the purpose of this bill is to reduce the felony threshold for trafficking food stamps so that it matches the federal threshold. The current statute makes it a felony to traffic food stamps for more than \$150 and a misdemeanor below that amount. The Office of Inspector General (OIG) for Health and Human Services requested that Idaho establish the threshold at \$100 so that it matches the Federal rules. This will allow the State's program integrity investigators to assist with these cases in order to charge individuals who traffic food stamps under Idaho law and Federal rules simultaneously. He also advised that a change in the title makes it clear that food stamps are also known as the Supplemental Nutrition Assistance Program (SNAP).

Mr. Bellomy provided some highlights about what the Department is doing to improve the integrity of SNAP. He indicated:

- The Department continues to maintain an extremely high accuracy rate and efforts continue to improve access to benefits while reducing costs and controlling abuse;
- The Department and its federal partners are working more cooperatively; and
- The Welfare Fraud Investigation Unit continues to improve both efficiency and effectiveness.

He requested that the committee send **RS 20761C1** to print.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Senator Heider asked how often people are caught misusing their SNAP benefits, resulting in a misdemeanor or felony and, in reducing the threshold to \$100, what is the benefit to citizens of Idaho and those in the food stamps program. **Mr. Bellomy** responded that the Department does not have an answer as to how often. They have not been highly successful in finding and prosecuting significant cases; however, they have had some success in identifying trafficking and were able to stop benefits to the recipient and provide enough information to close down a retailer. **Mr. Bellomy** continued the benefit would be in the removal of a barrier to the Federal government's ability to work with State and law enforcement partners sharing resources and expertise - to find, investigate, and prosecute these cases.

Chairman Lodge asked for clarification regarding **Mr. Bellomy's** reference to disabled electronic benefits for certain incarcerated recipients. **Mr. Bellomy** responded that, although not yet finalized, in a single member household where no other persons are authorized to use the benefits card, if the recipient has been incarcerated, the Department would deactivate the card, rather than terminate the benefits so that no one else can use the card while the person is incarcerated. He stated there are many of these situations where an individual was incarcerated and an unauthorized person was using the account, resulting in a program violation.

Senator Bock asked if the cards assisted the Department in reducing the level of fraud, or do they make it more difficult. **Mr. Bellomy** responded that he believed, although every method will bring its own set of problems and risks of manipulation, it does provide an electronic audit trail of what the transactions are and where they are occurring.

Senator Heider asked if it is simply the unauthorized use of the card in the store that is being addressed in Section 3 of the legislation. **Mr. Bellomy** replied that Section 3 refers to the ability of the retailer to redeem the benefits for cash.

MOTION:

Senator Darrington moved, seconded by **Senator Smyser**, that **RS 20761C1** be sent to print. The motion carried by **voice vote**.

RS 21030

Relating to the Medical Consent and Natural Death Act. Robert L. Aldridge, representing the Idaho End of Life Coalition, provided a historical background and explanation of changes proposed in **RS 21030**. In the course of updating the Medical Consent and Natural Death Act (originally two separate acts), a form called the "Physician Orders For Scope of Treatment", commonly called a "POST" was developed and language added to the Act to set the terms and conditions for the POST. This form was designed to reduce some of the problems that existed with "Do Not Resuscitate" (DNR) and "Do Not Intubate" (DNI) orders by doctors with a form that is much more flexible and portable, going with the person into all settings, and was binding on all treating personnel. Additionally, the form gave a number of more detailed options than either the Living Will and Durable Power of Attorney for Health Care or DNR and DNI orders would supply, thereby giving the person more control over their medical treatment.

The interaction between the POST and other medical directives, such as the Living Will and Durable Power of Attorney for Health Care, is clarified. Allowed signers of the POST are expanded to include Physician's Assistants (PA's) and Advance Practice Professional Nurses (APPN's). A new section is added to cover how a POST can be temporarily suspended. The new language gives clear methods for suspension and for resuming the POST after the suspension time has been completed. This bill, which has been worked on and reviewed extensively for several years, will greatly clarify the law on POST forms. It will also give a person executing a POST, or other medical directives, more certainty that their wishes will be followed. It will give medical personnel clarity on how the POST form works and their responsibilities under the POST. **Mr. Aldridge** requested that the Committee send **RS 21030** to print.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachments #2-4).

MOTION: **Senator Smyser** moved, seconded by **Senator Heider**, that **RS 21030** be sent to print. The motion carried by **voice vote**.

MINUTES APROVAL: **Senator Darrington** moved, seconded by **Senator Schmidt**, that the minutes of January 23, 2012 be approved. The motion carried by **voice vote**

PRESENTATION: **Responding to Community Needs Differently. Chairman Lodge** introduced **Lois Tupy**, Executive Director of Love INC (Love in the Name of Christ) of the Treasure Valley. **Ms. Tupy** reported that, aside from being Executive Director for Love INC, she has recently stepped aside from serving on the national directorship of Love INC and, as such, has seen and worked with people in need across the nation. This opportunity has given her the ability to bring both the local and national perspective. She stated that she has been involved with Love INC for 12 years and she wanted to present what is seen as she sits before people every day, face-to-face. Love INC's purpose and mission is to mobilize local churches to reach out to people in need through "developmental compassion" - coming along side people to help equip them so that they can improve their life. **Ms. Tupy** related she has worked with hundreds of churches and thousands of volunteers, and that Love INC is a great partner with community agencies working very closely with Health and Welfare and most other local agencies in the community. There are approximately 3,200 occasional volunteers - those not helping every week - and between 300-500 people who volunteer on a weekly basis.

One very common trend starting to bother not only **Ms. Tupy** but all the agencies they work with, is they are working with the same people in need constantly. In asking herself why and what is going on, her belief is that sometime during the

1960's the church began to release taking care of people in need to the government, and so the government put together the food stamps and other programs to try and address the situation. Addressing people in need became addressing their need and, as the person was ignored, they began to live in need. Soon churches opened food banks where people could come in to get food and go home, and repeat this scenario each week. **Ms. Tupy**i believes this has had a terrible effect across our nation; what exists now, in her opinion, is people in need are imprisoned in their need situation.

Ms. Tupyi highlighted the different training and mentoring options that Love INC offers to those in need. She featured the "New Hope Relational Program," which over the 12 years it has been available, has been tremendously successful. The 40-50 families that have been involved have paid off over \$2,300,000 worth of debt, 97% of their marriages have been saved, and 96% have increased or improved their employment. . Although the "New Hope Relational Program" does cost money to participate in, they also offer help and training in finances, cooking, shopping, nutrition, parenting, life skills, and job training - all offered for free and with mentorship and incentives. However, 90% of the people who come to Love INC for help do not participate in any of the training, especially those who are in generational poverty, because there is no motivation to do so. They are being taken care of, even if the lifestyle they live is less ideal.

Ms. Tupyi asked why people in need shouldn't be required to attend a class before receiving food stamps or have their food stamps restricted so that they have to do something, even once a week, to receive them. She expressed her discouragement with HUD housing and other government housing projects that have set some requirements, but do not offer any training components that would enable participants to meet those requirements. She believes that until there is a required participation in programs that Love INC and other non-profit agencies offer, in order to receive the assistance benefits now given so freely, very few will take part in improving their lives.

Various members of the Committee asked about Love INC's cooperation with other faith-based organizations and its work with people who have disabilities. **Ms. Tupy**i stated that they work with numerous churches in the Christian community and serve anyone who is in need, and that she believes other faith-based organizations who are not Christian also offer extremely good programs in the community. Among those in need, they work with the case managers of those with disabilities and developmentally impaired. Since Love INC's church volunteers may not be capable of teaching to that level, while Love INC does not have training classes available, they do provide for them. **Ms. Tupy**i summarized that it is out of compassion her heart breaks for people who are being allowed to remain imprisoned in their need and her desire is to see them take the opportunities that are available for them to have a fuller life.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #5).

Chairman Lodge adjourned the meeting at 4:29 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

Diana Page
Assistant Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Tuesday, February 07, 2012

SUBJECT	DESCRIPTION	PRESENTER
Gubernatorial Appointment Hearing Only	Michael D. Gibson of Nampa, ID was appointed to the Commission for the Blind & Visually Impaired to serve a term commencing July 1, 2011 and Expiring July 1, 2014.	Michael D. Gibson
Gubernatorial Appointment Withdrawal	The appointment of Allan R. Schneider of Emmett, ID to the Commission for the Blind & Visually Impaired to serve a term commencing September 22, 2011 and expiring July 1, 2012, is being withdrawn.	
<u>RS21166</u>	A Concurrent Resolution Stating Findings of the Legislature and Rejecting Certain Rules of the Department of Health and Welfare Relating to Medicaid Enhanced Plan Benefits.	Senator Joyce Broadsword
<u>RS21167</u>	A Concurrent Resolution Stating Findings of the Legislature and Rejecting A Certain Rule of the Bureau of Occupational Licenses Relating to Rules of the Board of Drinking Water and Wastewater Professionals.	Senator Joyce Broadsword
PRESENTATION	Idaho's Community Health Center System	Denise Chuckovich

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge

Vice Chairman Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, February 07, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:05 p.m.

GUBERNATORIAL APPOINTMENT HEARING **Michael D Gibson** of Nampa, ID was appointed to the Commission for the Blind & Visually Impaired to serve a term commencing July 1, 2011 and expiring July 1, 2014. **Mr. Gibson** stated that he owes a great deal of his success to the training and assistance he received through the Commission. It was through their training that he learned the skills that he needed to operate independently and be able to safely walk to the Capitol from Boise State University (BSU). **Mr. Gibson** stated he appreciates this reappointment to the Commission and provided the Committee with a short biography of his professional and personal life. He currently is employed as Assistive Technology Coordinator at BSU and indicates he enjoys interacting with people who have disabilities and helping them improve their lives.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Senator Bock asked **Mr. Gibson** to relate his experiences with the Commission. **Mr. Gibson** stated that he is honored to have a small part, through working with Director Jones and her staff, in seeing that the Commission is at or near the top of state agencies as far as performance placement and clients served.

After hearing **Mr. Gibson's** story of how he missed his bus and had to walk from BSU to the Capitol, **Chairman Lodge** asked how he was planning to get from the Capitol to wherever he needed to go. **Mr. Gibson** stated that he would be walking over to the Commission to pick up some materials he needs for a presentation he is giving to some Eagle Scouts the next day and then will walk back downtown to take the bus home to Nampa.

Chairman Lodge expressed her admiration of **Mr. Gibson**, who has done so well and is helping others to become the best they can possibly be.

Vice Chairman Broadsword asked if, due to budget cutbacks in recent years, the Commission has taken advantage of technology for video or audio conferencing instead of face-to-face board meetings. **Mr. Gibson** replied that they have incorporated conference calling and email communications but, due to Director Jones's expertise and skill, there have been ample funds to continue meeting face-to-face every quarter. In August of 2011, they were able to hold a Commission board meeting in eastern Idaho so that they could meet with the clients and interested stakeholders in that part of the state.

GUBERNATORIAL APPOINTMENT **Chairman Lodge** announced that the appointment of **Allan R. Schneider** of Emmett, ID to the Commission for the Blind & Visually Impaired is being held at **Mr. Schneider's** request and will be heard at a later date.

RS 21166

A Concurrent Resolution Stating Findings of the Legislature and Rejecting Certain Rules of the Department of Health and Welfare. Vice Chairman Broadsword advised that this legislation rejects specific subsections in the Medicaid Enhanced Plan Benefits rule related to cost surveys and is in accordance with the action taken by the Committee on **Docket No. 16-0310-1104**. She explained that the effect of this concurrent resolution, if adopted by both houses, would be to prevent the rejected subsections from going into effect. She requested that **RS 21166** be sent to print.

Senator Schmidt moved, seconded by **Senator Nuxoll**, that **RS 21166** be sent to print. The motion carried by **voice vote**.

RS 21167

A Concurrent Resolution Stating Findings of the Legislature and Rejecting A Certain Rule of the Bureau of Occupational Licenses. Vice Chairman Broadsword stated that this concurrent resolution would reject a line of text relating to the education requirements portion of a pending rule of the Bureau of Occupational Licenses relating to Rules of the Board of Drinking Water and Wastewater Professionals and is in accordance with action taken by the Committee on **Docket No. 24-0501-1101**. She explained that the effect of this concurrent resolution, if adopted by both houses, would be to prevent the rejected line from going into effect. She requested that **RS 21167** be sent to print.

Senator Vick moved, seconded by **Senator Nuxoll**, that **RS 21167** be sent to print. The motion carried by **voice vote**.

PRESENTATION: John Watts, of Veritas Advisors, representing Idaho Primary Care Association (IPCA) introduced **Denise Chuckovich**, Executive Director, Idaho Primary Care Association, who provided the Committee with an update on Community Health Centers (CHCs), including current issues and initiatives and what is anticipated in the future.

Ms. Chuckovich advised that CCHs are private, not-for-profit organizations governed by community-based boards of directors. Idaho's first Community Health Center (CHC) was Terry Reilly Health Services in Nampa, which opened in 1971. Community Health Centers provide primary preventative medical care, mental health, and dental services. They are not free clinics; everyone is welcome but all are expected to contribute. The uninsured are expected to pay for their care based upon a sliding fee scale. She reported that, in 2010, Idaho's CHCs served 133,000 patients - almost one in 11 Idahoans.

Ms. Chuckovich highlighted three key issues with regard to CHCs and health care in Idaho:

1. Access to care;
2. Providing high quality care; and
3. Containing cost.

CHCs are growing and the demand for their services is growing. There are now 13 CHCs with clinics in 37 Idaho communities. The clinics are primarily located in small, rural communities and are often the only source of care in the community. To a large extent, patients are low-income, uninsured, or with private insurance on Medicaid or Medicare. In 2010, 48 percent of CHC patients were at or below the federal poverty level and 49 percent were uninsured. Another key access issue, **Ms. Chuckovich** explained, is the continued, severe work force shortage. Idaho is currently 48th in the country in the ratio of family practice physicians to population.

Ms. Chuckovich related that the IPCA supports the Idaho Medical Home Collaborative established by Governor Otter in 2010 and is continuing to transform the clinics into Patient-Centered Medical Homes (PCMH). This is a model of primary care where each provider has an identified panel of patients whom he or she cares for. The health care staff works together as a team to provide preventative primary care; the focus is on keeping patients healthy and costs low. Care is coordinated with other parts of the health care system such as specialists or hospitals, as needed, to reduce duplication and avoid unnecessary costs. Ms. Chuckovich reported that 13 of the clinics will receive national recognition as PCMH in March of 2012; all of the clinics have committed to transforming their clinics into PCMH.

Ms. Chuckovich reported that they are also working closely with the Medicaid program to develop a health home model for patients with chronic conditions, often among the most expensive patients to care for, including patients with diabetes, hypertension, and various mental health issues.

Ms. Chuckovich stated that the electronic health record, or computerized medical chart, is an integral part of having a successful PCMH. She stated that presently ten of the CHCs have transitioned to electronic health records and the other three are in the process. This allows providers to more efficiently track patient status, their medications, referrals, etc.

Ms. Chuckovich stated that the average cost for a year's worth of care at a CHC is \$588 per person. Idaho's CHCs currently serve 12 percent of all Medicaid beneficiaries at a total cost of only 1.1 percent of Idaho's Medicaid budget. She stated funding is always a challenge when 49 percent of the patients do not have insurance. She expressed her appreciation to the Legislature who, in 2008, appropriated \$1,000,000 to Community Health in a grant program, which provided the funding to open eight (8) new dental clinics. Since the funds were "one-time only," they invested in equipment and bricks and mortar.

Ms. Chuckovich discussed the future of the changing health care environment in Idaho. She stated that their role in managed care will be keeping patients healthy and up to date on preventive care, managing patient referrals to appropriate specialty care, preventing unnecessary emergency department visits, and managing a patient's care following a hospitalization so they can avoid re-admittance.

Ms. Chuckovich advised that if the current health care law prevails and eligibility expands, many additional Idahoans - including many of their current patient population who are uninsured and of very low income - will be eligible for Medicaid or for insurance in 2014. She estimates that 35,000 of their current patients will become Medicaid patients and another 14,000 of their currently uninsured patients would be eligible for insurance. In looking forward, they see the need to get their systems prepared for the coming changes.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (See Attachment #2).

Senator Schmidt asked, with regard to the PCMH, if there are provisions for integration with hospital care and, if so, how do these rural clinics interact with hospitals in another town. **Ms. Chuckovich** responded that all of their CHCs work with the hospitals that are within their proximity. She stated they try to perform as much of the care as possible at the health center. In locations such as Council, where the closest hospital is in Weiser or McCall, they have a procedure room

in which a variety of care can be performed that a normal clinic would not be set up to handle. There is also a heli-pad that LifeFlight utilizes as needed. They are currently not connected electronically and must rely on faxes, telephone and emails. In working with Medicaid in Pocatello, they are developing an agreement between the hospital and Health West that the hospital will fax a message when they see one of their patients in the emergency room, including information on diagnosis and care provided; then the health center can call and try to follow-up

Senator Nuxoll asked if they are private, if they receive any grants, and if there is anyone on their board appointed by the Governor. **Ms. Chuckovich** replied that each health center is a private, not for profit, member organization run by a community-based board of directors, none of whom are appointed by the Governor. In fact, 51% of the board must be patients of the health center. She stated that her own board of directors is made up of representatives from all of the CHCs.

Vice Chairman Broadsword asked if any of the CHCs have invested in the needed technology and, if not, where do they see the funds coming from to make use of this technology. **Ms. Chuckovich** responded that 10 of their CHCs already have electronic health records, and that they "fell into the money by hook or by crook." The remaining three CHCs are currently in the process of finalizing those contract choices. Although the installation and ongoing costs of this technology are very expensive, the investment pays off in the benefits derived. **Chairman Lodge** asked which are the three CHCs that are still in process. **Ms. Chuckovich** replied they are Family Health Services, Adams County, and Valley County.

Senator Smyser asked what the plan is regarding the expansion in 2014. **Ms. Chuckovich** indicated they are anticipating more demand, in general, so they may open new sites if there is an adequate number of patients to support additional care. Clinic spaces are expensive due to the need for many items that are not required in a general office. CHCs must get by on very little and are quite creative in doing so. They are viewed as an asset in the community; as such, they receive great support, sometimes through foundation funding.

Vice Chairman Broadsword asked for clarification as to whether or not all PCMH will be CHCs. **Ms. Chuckovich** replied that they are, although they would like to see every primary care physician in the country become a PCMH because they believe the model provides high quality care and is very cost effective.

Chairman Lodge asked how many of the CHCs have a dental clinic associated with them. **Ms. Chuckovich** responded 11. The two that do not have dental clinics contract with local dentists because every health center is required by federal law to either provide or offer access to dental care. Of the 37 clinics in the state, she believes 33 provide dental care within the clinic.

The meeting was adjourned by **Chairman Lodge** at 3:44 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

Diana Page
Assistant Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, February 08, 2012

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL	Approval of Minutes of the meeting of January 24, 2012	Senators Nuxoll and Bock
S 1276	Relating to Advertising and Placing Children for Adoption Without a License	Rob Luce
S 1279	Relating to Liability of Legal Guardians for Their Ward	Rob Luce
S 1281	Relating to Adoption of Children To Provide a Method for Biological Parents to Maintain Contact With Adoptees	Rob Luce
PRESENTATION	Idaho Criminal Justice Commission Overview and Update on Children of Incarcerated Parents and Prison Gang Activity	Director Brent D. Reinke

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge

Vice Chairman Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken

Room: WW48

Phone: (208) 332-1319

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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, February 08, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:00 p.m.

MINUTES APPROVAL: **Senator Nuxoll** moved, seconded by **Senator Bock**, that the minutes from January 24, 2012 be approved. The motion carried by **voice vote**.

S 1276

Relating to Advertising and Placing Children for Adoption Without a License. **Rob Luce**, Administrator, Division of Family and Community Services, Department of Health and Welfare (Department) introduced **Cameron Gilliland**, Program Bureau Chief, Division of Family and Community Services, who presented **S 1276**. **Mr. Gilliland** advised that *Idaho Code* does not currently impose any sanction, fine, or criminal penalty in the event an unlicensed person or entity advertises or performs adoption services in Idaho without a license. This legislation outlines the misdemeanor penalty for advertising or performing adoption services in Idaho without a license. Additionally, the bill updates the types of media that may be used in advertising to better reflect current methods of advertising. He advised that states adopt standards for adoption services and Idaho is adopting the standard that protects the birth parents, the child, and the adoptive parents. Those standards currently can be circumvented by adoption agencies in other states advertising and working in Idaho without a license. **Mr. Gilliland** requested that the Committee send S 1276 to the floor with a do pass recommendation.

Senator Darrington asked what the purpose of the word "only" is on page 2, line 42 of the legislation. **Mr. Gilliland** deferred the question to **Mr. Luce**, who advised that he believed that section was a direct cut and paste from another section of Code and perhaps should be fixed in this legislation. **Senator Bock** commented that the word appears to have been left in by mistake in revising the legislation and could perhaps be looked at as a typo. The committee discussed the best way to address this with **Senator Darrington** recommending it be sent to the floor where the Chairman could, if necessary, ask unanimous consent for it to go to the 14th Order for amendment.

MOTION: **Senator Smyser** moved, seconded by **Senator Bock**, that **S 1276**, be sent to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Smyser** will sponsor the bill on the floor.

S 1279

Relating to Liability of Legal Guardians for Their Ward. **Mr. Luce** stated that the primary mission of the Division of Family and Community Services (Division) is to provide protection, permanence, and well-being for children and families in Idaho. The Division is statutorily responsible for child protection, foster care, adoption, and certain individuals with developmental disabilities. He advised that more than ten statutes were discovered last year that seemingly conflict with Idaho Probate Code, which states at Section 15-5-209 and 312, that a guardian is not legally obligated to provide from his own funds for the ward and is not financially liable to third persons by reason of the parental relationship for acts of the ward.

Mr. Luce explained that the purpose of **S 1279** is to resolve these apparent conflicts and clarify that, while a guardian with physical and legal custody of a ward may be held financially liable for his or her failure to supervise a ward, guardians are not financially liable to third persons for acts of the ward by reason of the parental relationship. He advised that without this legislation there may be a "chilling effect" on the Department's ability to recruit guardians for Idaho's most vulnerable population—children and individuals with disabilities. **Mr. Luce** requested that the Committee send **S 1279** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Vice Chairman Broadsword asked if parents have legal financial responsibility for acts committed by their child while they are under the care of their parents. **Mr. Luce** replied that they do; however, from his recollection there is a statutory limit on that liability. He stated there is a significant difference between being a parent and someone who steps up to become a guardian.

Senator Bock stated there are numerous instances where the signature of a legal guardian is required to accomplish something that cannot be done without someone in that official position. He emphasized his concern that financial responsibility not be imposed on the person who is willing to step into that role.

MOTION:

Senator Nuxoll moved, seconded by **Senator Heider**, that **S 1279** be sent to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Bock** will sponsor the bill on the floor.

S 1281

Relating to Adoption of Children. **Mr. Luce** introduced **Shirley Alexander**, Child Welfare Bureau Chief, Division of Family and Community Services, Department of Health and Welfare (Department) who presented **S 1281**. **Ms. Alexander** advised that this legislation is a proposal for open adoption of children in the foster care system. This legislation would provide a method for biological parents and siblings to maintain contact and communication with adoptees following termination of parental rights. She stated biological parents may be more willing to terminate parental rights if they have the ability to contact and communicate with an adoptee following termination of parental rights. Similarly, minor children over the age of 12 may be more willing to consent to a prospective adoption if they have the ability to contact and communicate with siblings or biological parents following termination of parental rights. This proposed legislation would only be pertinent to children in the foster care system, not private adoptions, and only to those adoptive parents who would voluntarily choose it. **Ms. Alexander** requested the Committee send **S 1281** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

Senator Nuxoll asked for confirmation that the contact agreement is fully voluntary for all involved. **Ms. Alexander** replied that it is.

Senator Schmidt asked if a family who is currently adopting a child gives the child the choice to maintain an open relationship with the biological parents, is that permitted, and are any doing so. **Ms. Alexander** replied that they currently do have some informal contact consents, not just in the foster care system but in private adoption as well. She advised that the law currently in place does not provide for a formal agreement, which is what the Department is asking for through this legislation. They believe that a formalized agreement will encourage all involved to feel more comfortable in choosing to consent to adoption.

Senator Schmidt moved, seconded by **Vice Chairman Broadsword**, that **S 1281** be sent to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Smyser** will sponsor the bill on the floor.

Senator Darrington commented that, although he has been the slowest to come on board in support of **S 1281**, electronic media has changed this and many other things forever. He is convinced that this is a very acceptable change; although there is a risk, there are more positives than negatives.

PRESENTATION: **Brent D. Reinke**, Director, Idaho Department of Correction (Department), presented an update on the Idaho Criminal Justice Commission (ICJC), established in July 2005. He stated ICJC's 25 members come from all three branches of government, and include county, city and citizen representatives – all of whom are committed members meeting at least 10 times per year. Their goal is collaboration for a safer Idaho – to reach balanced solutions on critical issues facing Idaho's criminal justice system based on research and evidence-based best practices. He expressed his appreciation to **Senators Darrington** and **Bock** for their active involvement on ICJC.

Director Reinke reviewed six of the seven ICJC Subcommittees: Criminal Justice Research Alliance; Grant Review Council; Sex Offender Management; Misdemeanor Probation; Children of Incarcerated Parents; and Public Defense. He stated the Grants Review Council oversees all the federal funding and 12 of the ICJC members meet a couple of times per year to take care of the grants. He advised that the Research Alliance Subcommittee has done a lot of work with the University of Idaho and Boise State University and now has a significant relationship with the Washington Institute on Public Policy and the Pew Foundation. This will enable them to test out ideas using the data they have available from the Northwest.

Director Reinke provided highlights regarding the work of the Sex Offender Management Board which is looking at the overall efforts of sex offender management and working on sex offender treatment programs and treatment provider certification to ensure consistency statewide. He advised that in the area of Misdemeanor Probation a constitutional amendment is underway to clarify that the Board of Correction shall manage adult felony probation and parole. He stated that ICJC manages approximately 14,000 people statewide on misdemeanor probation with 105 officers who are all county employees. It is his desire to slow these offenders down in hopes of keeping them from becoming felons.

Director Reinke reported significant success in the area of Children of Incarcerated Parents. ICJC is challenging the faith-based community to ask the inmates they visit if they can do something to help their children. He advised the Public Defense Subcommittee is developing standards for training, job descriptions, caseloads, and contracts trying to bring some structure and more balance to this area.

Director Reinke introduced **Jim Tibbs**, Chairman of the ICJC Subcommittee on Gangs, the seventh subcommittee. He advised that the Idaho Supreme Court has upheld the constitutionality of the Criminal Gang Enforcement Act and this subcommittee is working on revising recommendations as a useful tool for communities and schools.

A copy of a slide presentation related to the presentations of **Director Reinke** and **Jim Tibbs** has been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

Chairman Lodge commented that she is grateful to hear that the gang legislation has been helpful; she has received appreciation from several law enforcement officers for the assistance members of the Committee have provided.

Senator Smyser expressed her appreciation for the ICJC providing a resource to schools in regard to incarcerated parents. During the past three years that has been a prevalent topic for public schools in Canyon County.

Senator Darrington commented that one must sit in on the ICJC meetings to realize the power at that table. There are many agency heads, judges, legislators, and citizens who participate. It is a worthwhile endeavor and extremely educational.

Senator Bock commented that of all the committees he serves on, he feels ICJC is the most rewarding and important because of the issues involved.

Chairman Lodge thanked **Director Reinke** and **Mr. Tibbs** for their long and hard work, along with **Senator Darrington** and **Senator Bock** for their contribution on the Commission.

Senator Heider asked **Director Reinke** how our state laws interface with federal laws and regulations regarding child trafficking and the prison system. **Director Reinke** replied that he actually sees some major successes. The Treasure Valley Task Force is working with the FBI, the U.S. Attorney's Office, and the U.S. Marshall's Office, and with all of the counties and cities in the Treasure Valley. If they are working on a particular drug house, they communicate with each other and do not have conflicting arrests or other issues that could become a problem. These types of efforts are extremely valuable in keeping the staff and community safe.

Vice Chairman Broadword asked **Director Reinke** to share what he shared in JFAC about the price tag attached to putting prisoners in a Federal jail versus state jail. **Director Reinke** responded that Idaho committed \$25,000 to the Treasure Valley Task Force and these funds enabled us to send 133 drug or gang members to Federal court - certainly a savings for the State and a tremendous help to our communities.

ADJOURN:

Chairman Lodge commented that Canyon County is much safer due to that \$25,000 investment and the work of ICJC. There being no further business to come before the Committee, the meeting was adjourned at 3:57 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

Diana Page
Assistant Secretary

AMENDED #1 AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, February 09, 2012

SUBJECT	DESCRIPTION	PRESENTER
<u>RS21063C1</u>	Relating to Retail Sales of Pseudoephedrine Products	Senator Joyce Broadsword
<u>S 1277</u>	Relating to Dietitians To Revise the Dietetic Licensure Board Member Compensation	Nancy Kerr
<u>S 1278</u>	Relating to Athletic Trainers To Revise the Compensation For the Members of the Idaho Board of Athletic Trainers	Nancy Kerr
<u>S 1280</u>	Relating to the Respiratory Care Practice Act To Revise the Licensure Board Member Compensation and Make a Technical Correction	Nancy Kerr
PRESENTATION	Idaho Academy of Nutrition and Dietetics - Association Overview and Efforts Toward Preventive Care	Sue Linja and Roseanna Holliday

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge
Vice Chairman Broadsword
Sen Darrington
Sen Smyser
Sen Heider

Sen Vick
Sen Nuxoll
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, February 09, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:04 p.m. and welcomed the dieticians present.

RS 21063C1 **Relating to Retail Sales of Pseudoephedrine. Vice Chairman Broadsword** introduced **RS 21063C1**, which adds to and amends *Idaho Code* to revise provisions relating to maximum pseudoephedrine purchasing making it consistent with Federal law, and establishes electronic sales tracking for real time ability to stop illegal sales. This change will allow law enforcement access to records gathered for electronic sales tracking without having to travel from pharmacy to pharmacy. It will negate the need for pharmacies to keep a hand written log book to track sales unless they have no access to the internet. It provides pharmacies with a consistent online database only accessible by the pharmacy board, law enforcement and prosecutors. Many other states use the electronic tracking system so it will allow law enforcement to see if illegal sales across the border coincide with illegal sales in Idaho.

Vice Chairman Broadsword advised that pseudoephedrine, in its generic form, is one of the key ingredients in methamphetamine (meth). There are a number of agencies supporting this issue including the Idaho Chiefs of Police Association (see Attachment #1) and the Idaho Sheriffs Association. **Vice Chairman Broadsword** asked that **RS21063C1** be sent to print.

Senator Darrington asked if anyone other than the Board of Pharmacy and law enforcement has the right to access information related to pseudoephedrine sales. **Vice Chairman Broadsword** replied this information is only available to the Board of Pharmacy, the pharmacy making the sale, and law enforcement personnel; it is not available to the general public. She stated there is a strong effort to keep pharmacy information private. **Senator Darrington** asked if the electronic system used is a secure system and, if so, is that problematic. **Vice Chairman Broadsword** responded it is a secure system and is not problematic. She indicated that when the bill is heard in Committee, she will bring in some people who are using this particular type of electronic tracking system.

Senator Bock commented that he and Senator Schmidt have been working on legislation related to controlled substances that is similar to this bill. According to the Board of Pharmacy, their lag time for the restrictions, is approximately seven (7) days because they do not have the funding to keep the system up-to-date. He asked if the database referred to in this legislation is the same as that used by the Board of Pharmacy. **Vice Chairman Broadsword** replied that this is a different system. This system compiles information for a number of states and is housed in Kentucky. The Board of Pharmacy can access this information, but it is not the Board of Pharmacy's program to track controlled substances.

Senator Bock asked if there is any reason why this same system could not be utilized to track all controlled substances. **Vice Chairman Broadsword** advised that would be a question for the Board of Pharmacy. **Senator Bock** commented that he would like to have some discussion about the use of this system as it relates to controlled substances upon hearing this bill, as this could have a major impact on tracking prescriptions for controlled substances.

Senator Heider asked if the retailer is responsible for purchasing the electronic sales tracking system and, if so, what the cost is. **Vice Chairman Broadsword** advised there is no cost to the pharmacy. At this time, the pseudoephedrine industry pays 100 percent of the cost, including software needed and maintenance of the system. **Senator Heider** asked if this system utilizes telephone lines, secured lines, or air waves. **Vice Chairman Broadsword** responded the system is run via broadband over the internet. For those pharmacies that do not have internet, there is the potential to modify credit card scanners so the purchaser's drivers license can be scanned into the system for tracking.

MOTION: **Senator Smyser** moved, seconded by **Senator Heider**, that the Committee send **RS21063C1** to print. The motion carried by **voice vote**.

S 1277 **Relating to Dieticians. Nancy Kerr**, Executive Director, Idaho Board of Medicine, stated this legislation allows members of the Dietetic Licensure Board to opt out of the Public Employees Retirement System (PERSI) by changing the reference in Idaho Code to classify the compensation as an honorarium. This change allows members to avoid any possible tax implications since membership in a qualified plan, such as PERSI, limits participation in a personal IRA. **Ms. Kerr** noted the RS specified, correctly, the change in Idaho Code from § 59-509(h) to § 59-509(n); however, the printed bill reflects a typographical error, reflecting the change as § 59-509(b) rather than § 59-509(n). **Ms. Kerr** requested the Committee send **S 1277** to the floor with a do pass recommendation.

The committee discussed the need to correct the typographical error in the code reference and the procedure necessary to correct it on the floor versus going to the Fourteenth Order. After consulting the different sections of *Idaho Code*, it did appear that this would be considered a substantive change; however, presenting this correction in the Fourteenth Order may not be a good use of time on the floor of the Senate. **Senator Darrington** recommended sending the bill to the floor and, if necessary, it could go to the Fourteenth Order.

MOTION: **Senator Bock** moved, seconded by **Senator Nuxoll**, that **S 1277** be sent to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Bock** will sponsor the bill on the floor.

S 1278 **Relating to Athletic Trainers. Ms. Kerr** advised that this legislation allows members of the Board of Athletic Trainers to opt out of the PERSI by changing the reference in *Idaho Code* to classify the compensation as an honorarium. **Ms. Kerr** requested the Committee send **S 1278** to the floor with a do pass recommendation.

MOTION: **Senator Schmidt** moved, seconded by **Vice Chairman Broadsword**, that **S 1278** be sent to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Vick** will sponsor the bill on the floor.

S 1280 **Relating to the Respiratory Care Practice Act. Ms. Kerr** stated this legislation allows members of the Respiratory Care Licensure Board to opt out of PERSI by changing the reference in *Idaho Code* to classify the compensation as an honorarium. **Ms. Kerr** requested the Committee send **S 1280** to the floor with a do pass recommendation.

MOTION: **Senator Nuxoll** moved, seconded by **Senator Heider**, that **S 1280** be sent to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Nuxoll** will sponsor the bill on the floor.

PRESENTATION: **Idaho Academy of Nutrition & Dietetics. Sue Linja**, RD, LD, President, Idaho Academy of Nutrition & Dietetics (Association), introduced **RoseAnna B. Holliday**, RD, LD, PhD, MPH, President-Elect, and acknowledged Board members in attendance, as well as representatives of the licensed registered dietitians in the state and students from the University of Idaho and Idaho State University dietetics programs. She stated that some students in attendance have done their pre-dietary work at Boise State University, College of Western Idaho, College of Southern Idaho, or North Idaho College, reflecting the Association's nutrition programs throughout the state. She also acknowledged Tim Olson and Steve Rector of Pinnacle Business Group who are helping the Association through the process of having a voice in health care discussions in Idaho.

Ms. Linja stated that their goal is to introduce the Association and provide education on the Licensed, Registered Dietitian and how they can play a huge role in the reduction of health care costs. She emphasized that prevention through good nutrition is the key and provided handouts for each Committee member listing names of Registered Dietitians within their districts. These dietitians work in three major hospitals, local health clinics, private practices, private industries, dialysis centers, diabetes treatment centers, public schools, nursing homes, in the WIC program at Central District Health, and teaching at the College of Southern Idaho.

Ms. Linja stated there are approximately 550 licensed registered dietitians and dietetic students in Idaho. She provided highlights of the extensive requirements involved in pursuing a career in the nutritional dietetic profession:

- Licensed registered dietitians must have at least a four (4) year, bachelor's degree; many also have a master's level degree and several, like Dr. Holliday, are PhDs.
- They must pass a national registration exam.
- They must have 75 hours of continuing education credits over a five (5) year period to keep current in their profession.

Dr. Holliday stated she practices in Twin Falls and teaches nutrition at the College of Southern Idaho. She reported that a licensed, registered dietitian is really an advocate for healthy lifestyles and prevention. **Dr. Holliday** noted there is a study projecting that Idaho can save \$62 million by improving preventive services, including nutrition. She stated that there is a tsunami of information about nutrition that exists, with everyone claiming to be nutrition experts. However, much of the information is scattered, often inaccurate, or even misinterpreted. Idaho's licensed, registered dietitians can cut through the clutter and provide expert guidance to improve nutrition that is personal, doable, practical, and affordable.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

Senator Darrington asked how the dietitians reach individual people who need education in proper nutrition and if that is through nurses and doctors. **Dr. Holliday** noted that the focus does need to be on integrated care and responded by inviting **Senator Darrington**, and any of the Committee members, to their annual meeting in Sun Valley from May 2-4, at which time they will be discussing integrated care and building relationships.

Senator Heider asked how those who are healthy, and want to remain healthy, interface with nutritional experts. **Dr. Holliday** responded that there are a variety of ways in which to access a registered dietician, one of which is through their website, eatrightidaho.org. If you enter your zip code, you will see a list of registered dieticians in your area.

Chairman Lodge expressed her appreciation for the excellent, enthusiastic presentation and commented that, due to several aspects of working in the Legislature, further information about nutrition would be very helpful to everyone here. **Ms. Linja** stated, the Association would love to support the Legislature with educational sessions on nutrition.

Senator Smyser suggested the Association contact Teresa Luna at the Department of Administration and consider partnering with the Department's Wellness Committee to provide education on nutrition for all State employees, including the Legislature.

ADJOURN:

Chairman Lodge advised that she would be presenting to JFAC on Thursday and asked the Committee to give her any suggestions on items they might want addressed. The meeting was adjourned at 3:42 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

Diana Page
Assistant Secretary

AMENDED #1 AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, February 13, 2012

SUBJECT	DESCRIPTION	PRESENTER
Gubernatorial Appointment <u>Vote Only</u>	Michael D. Gibson of Nampa, ID was appointed to the Commission for the Blind & Visually impaired to serve a term commencing July 1, 2011 and Expiring July 1, 2014.	
<u>RS21221</u>	Relating to Vocational Rehabilitation	Senator Joyce Broadsword
<u>S 1260</u>	Relating to Nurses - To grant the Board of Nursing the authority to establish alternatives to formal disciplinary action and to make technical corrections	Sandra Evans
<u>S 1261</u>	Relating to Nurses - To provide that the Board of Nursing shall have the power and duty to evaluate and develop, or to enter into contracts or agreements with others to evaluate and develop, the education, distribution and availability of the nursing workforce.	Sandra Evans
<u>S 1262</u>	Relating to Nursing - To require that all applicants for original certification or certification reinstatement as a certified medication assistant submit to a fingerprint-based criminal history check and to provide requirements relating to such criminal history check.	Sandra Evans
<u>S 1273</u>	Relating to Nurses - To provide correct terminology; to revise a qualification for an advanced practice registered nursing license; to revise provisions relating to license renewal; to revise the membership of and term of office for the Advisory Committee to the Board; and to revise the duties of the Advisory Committee to the Board.	Sandra Evans

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge	Sen Vick
Vice Chairman Broadsword	Sen Nuxoll
Sen Darrington	Sen Bock
Sen Smyser	Sen Schmidt
Sen Heider	

COMMITTEE SECRETARY

Lois Bencken
Room: WW48
Phone: (208) 332-1319
email: lbencken@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, February 13, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:05 p.m.

GUBERNATORIAL CONFIRMATION VOTE : **Michael D. Gibson** of Nampa, Idaho was appointed to the Commission for the Blind and Visually Impaired to serve a term commencing July 1, 2011 and Expiring July 1, 2014.

MOTION: **Senator Bock** moved, seconded by **Senator Nuxoll**, to send the gubernatorial appointment of **Michael D. Gibson** to the Commission for the Blind and Visually Impaired to the floor with the recommendation that said appointment be confirmed by the Senate. The motion carried by **voice vote**.

RS 21221 **Relating to Vocational Rehabilitation. Vice Chairman Joyce Broadsword**, District 2, reported that Idaho's End-stage Renal Disease Program was established in 1970 and requires the Division of Vocational Rehabilitation to provide financial assistance to individuals diagnosed with end-stage renal disease who are unable to pay for the cost of services. A recent study by the Office of Performance Evaluations (OPE) (see Attachment #1) found that Medicare, Medicaid and private insurance provide for some or all of the costs associated with end-stage renal disease, making the original legislative intent of these laws no longer relevant. She indicated the Governor is recommending this program be phased out and the purpose of this legislation is to amend *Idaho Code* Sections 33-2307 and 33-2308, thereby terminating the end-stage renal disease program by June 30, 2013. **Vice Chairman Broadsword** requested that the Committee send **RS 21221** to print.

Senator Schmidt commented that he recalled an executive order issued in 2010 stating that any requirements to participate in the federal health care program would need to be authorized by the Governor and wondered if that order would have implications here. **Vice Chairman Broadsword** indicated that order dealt with state agencies seeking federal money. She advised that they are not looking for federal dollars to replace monies in this program; there are already programs in place that people who suffer from renal disease can access, and this program is essentially a duplication.

MOTION: **Senator Schmidt** moved, seconded by **Senator Nuxoll**, that the Committee send **RS 21221** to print. The motion carried by **voice vote**.

Vice Chairman Broadsword indicated she would appreciate receiving any specific questions anyone would like addressed when this bill comes back before the Committee.

S 1260

Relating to Nurses. Sandra Evans, Executive Director, Idaho Board of Nursing (Board), advised that this proposed legislation grants the Board clear statutory authority to develop and implement an alternative to formal discipline in cases where minor substandard practice has occurred and there is no showing on the part of the nurse of intentional or reckless behavior and where there is no evidence of substantial harm or the potential for substantial harm caused by the deficiency. She requested that the Committee send **S 1260** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

Vice Chairman Broadsword asked what the alternative discipline would consist of. **Ms. Evans** indicated that currently the Board can only restrict, revoke or deny a license and the Board is seeking an alternative short of that formal process to remediate the nurse through additional education or supervision. **Senator Bock** asked what is currently being done in circumstances that do not merit disciplining the license. **Ms. Evans** advised that the Board does use remediation through the grievance process or stipulated agreements. The Board is seeking clear statutory authority to continue those practices. **Senator Schmidt** noted, from his experience in the medical community, this process is difficult and costly and questioned why there is no significant fiscal impact. **Ms. Evans** related that a year ago the Board requested the addition of two staff members to handle disciplinary and monitoring related activities so additional manpower is already in place.

MOTION:

Senator Smyser moved, seconded by **Senator Schmidt**, that the Committee send **S 1260** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Smyser** will sponsor the bill on the floor.

S 1261

Relating to Nurses. Ms. Evans advised that this proposed legislation amends *Idaho Code*, Section 54-1404, by authorizing the Board to use its dedicated resources to support nursing workforce initiatives to develop the education, distribution and availability of nurses, or to enter into contracts or agreements with others to fulfill these purposes in an effort to improve the delivery of quality health care in Idaho.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

Vice Chairman Broadsword asked if the Board has been approached by anyone seeking some type of initiative and asking for support. **Ms. Evans** responded, yes. The Board has been talking for a number of years about funding to support research initiatives. A concern of the Board with the retirement of a number of nurses in the baby boomer generation is the maldistribution of professionals. With the assistance of the legislature and the Governor's office there have been several initiatives in place over the years with the Department of Labor doing some very targeted workforce analysis. She stated the Board has been approached by the Idaho Alliance of Leaders in Nursing to talk about the future. **Vice Chairman Broadsword** asked what the Board's dedicated fund balance is currently. **Ms. Evans** stated it is in excess of \$1 Million.

TESTIMONY:

Margaret Henbest, Executive Director, Nurse Leaders of Idaho, spoke in support of **S 1261**. She provided background on the Idaho Nursing Work Force Center at Boise State University which was initially funded by a HRSA grant and stated the Idaho Alliance of Leaders in Nursing has maintained a volunteer advisory capacity with the Department of Labor to look at the ongoing nursing work force data collection effort and has asked for support of the Board of Nursing for funding using dedicated nurse license fees.

Vice Chairman Broadsword noted there has been a shortage of nursing instructors and asked if that is getting any better. **Ms. Henbest** responded that there continues to be a shortage of nursing faculty.

MOTION:

Vice Chairman Broadsword moved, seconded by **Senator Bock**, that the Committee send **S 1261** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Smyser** will sponsor the bill on the floor.

S 1262

Relating to Nursing. **Ms. Evans** advised that this proposed legislation amends *Idaho Code* Section 54-1406A to require that state and federal criminal background checks required as part of the application for certification as a medication assistant be fingerprint based. She noted that a recent FBI audit of the Board of Nursing's conduct of criminal background checks identified that statutory language does not specify the basis for the background checks to be applicant fingerprints thereby preventing the Board from accessing the national fingerprint database. She requested that the Committee send **S 1262** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #4).

Vice Chairman Broadsword asked if the Board is already doing background checks and this just adds the fingerprint based requirement, and if so, is there an additional cost. **Ms. Evans** responded that this was an oversight on the part of the Board and the fee applicants are being assessed includes fingerprint checks. **Senator Schmidt** asked how many practicing medical assistants are certified versus non-certified. **Ms. Evans** advised that this legislation affects a certified medication assistant which is different from a medical assistant. She further advised that the Board has only had three applicants with one being currently certified.

TESTIMONY:

Eric Pedersen spoke in opposition to **S 1262**. He stated he has been coming to committee meetings for a few weeks and has observed that legislators tend to just look at whether or not they think it is good and will benefit the state instead of what the government's role is. **Chairman Lodge** informed **Mr. Pedersen** that he should speak only on the topic of **S 1262**. **Mr. Pedersen** stated he was speaking to the bill and indicated there is nothing in Section 54-1401 that is not purely socialist and it is a complete takeover. **Chairman Lodge** recognized **Senator Darrington** who asked if **Mr. Pedersen** was saying that the Committee members are socialists and enacting socialist legislation. **Mr. Pedersen** responded, "Yes, it is." **Chairman Lodge** again reminded **Mr. Pedersen** to speak to the bill. **Mr. Pedersen** indicated he wanted to speak on **S 1261** but was not familiar with the procedure. **Chairman Lodge** recognized **Senator Darrington** who informed **Mr. Pedersen** that everyone is given a chance to speak on any particular bill and the Chairman had invited testimony. **Mr. Pedersen** stated the problem is that we have lost faith in people and things like this—like a fingerprint check—is a violation of people's rights. **Chairman Lodge** asked if **Mr. Pedersen** is a nurse. He responded, "No," and asked **Chairman Lodge** if she is a nurse. **Senator Darrington** informed **Mr. Pedersen** that it is appropriate to make comments regarding the legislation, but it is inappropriate for a witness to question a chairman. **Mr. Pedersen** left the podium.

MOTION:

Senator Darrington moved, seconded by **Senator Smyser** that **S1262** be sent to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Schmidt** will sponsor the bill on the floor.

S 1273

Relating to Nurses. **Ms. Evans** advised that nurses are licensed in Idaho to practice in advanced roles as certified nurse midwives, clinical nurse specialists, nurse practitioners and registered nurse anesthetists. This legislation provides consistency with nationally agreed upon designations for licensed nurses, proposing the abbreviation RN for registered nurse, and the abbreviation APRN for advance practice registered nurse. It does not alter existing advance practice nurse roles or scopes of practice. The legislation changes the membership of the APRN Advisory Committee to assure representation of the four advanced practice nursing roles as well as the public interest and increases the term of appointment from two to three years. **Ms. Evans** requested that the Committee send **S 1273** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #5).

Vice Chairman Broadsword noted the legislature has heard bills from the Board of Medicine to change the designation of board members so they are not paying into PERSI, she asked if the compensation for this board takes that into account. **Ms. Evans** advised that this legislation deals with members of the Advisory Committee to the Board and the members are not compensated. In response to a question from **Senator Schmidt**, **Ms. Evans** indicated that the purpose in amending the statute related to membership is to fully represent the four advance practice nursing roles and then to add a consumer member as well to be sure the consumer interest is present during the dialogue. The addition of two physicians was a compromise at the request of the Medical Association and Board of Medicine to better balance the number of physicians and nurses on the committee.

TESTIMONY: **Ms. Henbest** spoke in support of **S 1273**. She stated this legislation reflects the evolution of the advance practice nurse in Idaho, and the increase in the Committee membership is timely.

MOTION: **Senator Schmidt** moved, seconded by **Senator Heider**, that the Committee send **S 1273** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Nuxoll** will sponsor the bill on the floor.

ADJOURN: **Chairman Lodge** noted Committee members are due on the floor in fifteen minutes and adjourned the meeting at 3:45 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Tuesday, February 14, 2012

SUBJECT	DESCRIPTION	PRESENTER
S 1294	Relating to the Medical Consent and Natural Death Act	Robert L. Aldridge
PRESENTATION	Department of Health & Welfare - Children's Benefits Redesign Status Report	David Simnitt and Chad Cardwell
PRESENTATION	Methamphetamine Precursor Informational Presentation	Todd Rains

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge

Vice Chairman Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, February 14, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:05 p.m.

S 1294 **Relating to the Medical Consent and Natural Death Act. Robert L. Aldridge** requested that **S 1294** be held for a day or two.

GAVEL CHANGE: **Chairman Lodge** introduced her neighbors, the Sauer family, who are here in support of proposed legislation related to texting while driving. They are testifying before the Transportation Committee on behalf of their daughter, Taylor, who was fatally injured while driving and texting. **Chairman Lodge** asked that she be excused to support the Sauer family and passed the gavel to **Vice Chairman Broadsword**, who announced the next item on the agenda is a status report related to the Children's Benefits Redesign. She stated there would be no testimony from the audience, but the Committee will be allowed to ask questions.

PRESENTATION **Department of Health and Welfare - Children's Benefits Redesign Status Report. David Simnitt** Deputy Administrator, Division of Medicaid, Department of Health & Welfare (Department) stated the Department has received the necessary approval from the Centers for Medicare and Medicaid Services (CMS) to implement the rules adopted by the Legislature in 2011. **Mr. Simnitt** provided a brief history of Children's Developmental Disability (DD) services in Idaho, highlighting the fact that prior to 1995 children utilized few Medicaid DD services. In 1996 the Department began to see an increase in the use of developmental therapy and introduced Intensive Behavioral Intervention (IBI) which was originally targeted to the specific needs of children with autism. Because Medicaid rules do not allow targeting services to a specific population group, this was made available to children with DD from birth to 21 years of age. He reviewed the increase in utilization from 1991 through 2011 and advised that as utilization began to increase there were concerns from families, advocates and providers that this therapy program did not always meet the needs of the children.

In 2009 the Department began to work on the children's benefit redesign package. A Steering Committee and Design Committee were established and meetings were held with families and stakeholders over a two-year period to identify redesign objectives, which he reviewed. He stated the redesign objective is to move from a one-size-fits-all system, that was only able to deliver therapy, to a system that provides a continuum of care based on the child's level of need.

The Department developed a budget methodology for children with DD based on research and level of care needs. Outside of the budget children can access an array of non DD services to meet individualized needs, including: medical services, pharmacy, physical therapy, occupational therapy, speech therapy, crisis services, and early periodic screening (EPSDT) for medically necessary services. **Mr. Simnitt** provided an example of a child's budget detailing the services that come out of the budget and those that do not.

Realizing it would be impossible to move from the old to the new system all at once, the Department structured a phase-in strategy over the course of a year, based on a child's birth date. This necessitates operating two systems at once which is a challenge for the field staff.

Mr. Simnitt introduced **Chad Cardwell**, Field Operations Program Manager, Division of Family and Community Services DD Program, who advised that new benefits became available on October 1, 2011 and currently 119 families are receiving services under the redesign program. Case Management is provided through a combination of Department staff and contractors. The Department has been able to sign contractors in only two areas of the state and Department staff will continue to handle case management while contracts in other areas of the state are pursued.

Mr. Cardwell provided an overview of the current program enrollment, indicating 71 percent of families receiving application notices have responded and 12 percent of families have chosen to move to the new redesign services. A contributing factor to the low number of families receiving new services is the inability of the program to secure contracts for case management as intended. As a result, the transition plan portion of the program was delayed on an interim basis to give the Department more time to pursue contracts. During this interim period families were given the option to transition, but were not required to transition until contracts were in place. He reviewed the services being chosen by parents under the redesign and indicated they are choosing an array of services.

Mr. Cardwell reviewed the Department's communications with parents and providers and noted the Department's web site, www.redesignforchildren.medicaid.idaho.gov has current information about the program and contact information. He indicated there is some confusion among families who have not yet transitioned regarding what benefits come out of the DD budget, and some families report that providers are advising against transitioning to the new system. He stated as a result the Department is increasing its communication with families. He further stated that among families who are receiving the new services there is strong agreement that their questions are being answered and services are being met. He stated the Department would continue to monitor the program closely.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Senator Schmidt asked what procedure was used in seeking contracts for case management. **Mr. Cardwell** indicated RFPs were issued in April 2011 for a statewide contractor. There were only two vendor responses, with one vendor being prepared to offer a statewide contract; that bid was beyond the Department's allocated budget, so the contract was not awarded and the RFP was cancelled. The RFP was revised to a regional contract and established a per member per month rate which locked in the allocated budget. Contracts have been awarded in Regions Three and Four. He is optimistic that additional contracts will be awarded in the near future.

In response to questions from **Senator Schmidt**, **Mr. Cardwell** confirmed that there was a good response to the RFP from urban areas, but rural areas did not respond. He stated that the cost for services graph shown to the Committee reflects an increase in spending during the 1990's which is commensurate with the increase in participant levels. There was an additional spike in the early 2000's when the Department noted a move from DD to IBI; the same participants were receiving more expensive services. There are 3200 children with DD in the current system and increases are commensurate with population increases in Idaho. He advised, however, that increases in school based services continue to be a concern. Regarding the simultaneous operation of two systems, he indicated that identifying who is participating in which system is mostly done through communications with families, and that the key to getting families to the services they need is having employees who know everything about both programs.

In response to questions from **Senator Smyser** related to school based services, **Mr. Simnitt** indicated the Department maintains those DD and IBI services in the Medicaid State Plan and the Department is working through a plan so that when those services are moved out of the State Plan it will have the least impact possible on schools. He stated it is hard to make a distinction between these habilitative services in schools and education and the office of the inspector general is looking closely at all school based services. They have not come to Idaho yet, but around the country the federal government has made fairly significant disallowances or recoupment of school based Medicaid services, because those were delivered inappropriately or they were replacing education with Medicaid services. The Department has not identified why these costs are increasing and has an integrity unit looking specifically at what is going on in schools. They are taking a broad look at it and trying to figure out what makes sense from a Medicaid perspective for school providers.

Vice Chairman Broadsword asked if the Department has a final deadline for moving everyone to the redesign and if the project will still be budget neutral. **Mr. Simnitt** indicated CMS has recommended cutting the old system off and moving people to the new benefit package. He stated at some point that may be necessary, but the Department is trying to identify some alternative strategies to encourage people to move to the new system so there is not a drop dead date, and they are committed to having this be a smooth transition process. He noted that whenever you operate two systems at once there is an increased cost, but in the long term there is a good plan in place to have a cost neutral initiative so that when they are no longer operating two systems it will be cost neutral.

Vice Chairman Broadsword asked if there is a means test for people who can afford to pay for childrens services. **Mr. Simnitt** indicated families with DD children are qualifying for Medicaid in a variety of ways. One way is low income and meeting financial eligibility and additional clinical program requirements – there is no cost sharing or copay for those families. Others qualify through the Katie Beckett program which asks families to make voluntary premiums based on income levels – there is no copay for this program this year, with the exception of some speech therapy.

**GAVEL
CHANGE:**

Vice Chairman Broadsword returned the gavel to **Chairman Lodge**, who thanked the presenters for an informative presentation.

PRESENTATION Methamphetamine Precursor Informational Presentation. Chairman Lodge introduced her intern, **Todd Rains**, who provided the Committee with the history of pseudoephedrine regulation federally and in Idaho. He stated the Methamphetamine Epidemic Act of 2005 (Act), which was signed on March 9, 2006, as part of the USA Patriot Improvement and Reauthorization Act, first regulated pseudoephedrine, the active ingredient of Sudafed and similar decongestants, and the essential ingredient of methamphetamine.

He reviewed the mandates in the Act on retailers to accomplish the intended substance control and also provided a chart showing the number of lab busts from 2004 through 2010 for both national and Idaho incidents. **Mr. Rains** advised that **S 1309** now before the Legislature is an attempt to deal with individuals going to different retailers to exceed the daily or monthly purchase limit of pseudoephedrine.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

Senator Darrington asked if the graph presented was done by DEA or Idaho and if it represents all state, county and local busts. **Mr. Rains** responded that the data is from DEA for Idaho busts and National totals. **Senator Schmidt** indicated he has read that instead of large batches, some are mixed in a 2 liter bottle, and asked if one of those were to blow up, would it be considered a lab bust. **Chairman Lodge** recognized **Vice Chairman Broadsword** who responded to that question indicating it might not necessarily be a lab bust, because of the amount involved. She further indicated that law enforcement has informed her that they feel they could make more busts in Idaho if the electronic tracking of Pseudoephedrine is implemented in accordance with **H 1309**.

Mr. Rains indicated he would investigate the subject further and provide answers for the Committee to the following questions:

1. It is thought that more Pseudoephedrine is being shipped to Mexico than can actually be used for decongestant medication, is there any evidence the excess is being used for production of Methamphetamine?
2. Why was there an increase in the lab busts nationally from 2007 to 2010, while Idaho busts remained pretty stable, and could this have anything to do with the amount of money that was being put toward law enforcement?
3. Is data available on the prevalence for abuse or health problems resulting from Methamphetamine use?

ADJOURN: **Chairman Lodge** thanked **Mr. Rains** for his presentation and adjourned the meeting at 4:25 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, February 15, 2012

SUBJECT	DESCRIPTION	PRESENTER
SCR 112	Stating Findings of the Legislature and Acknowledging the Seriousness of Alzheimer's Disease and Other Dementias In Idaho By Endorsing the Idaho Alzheimer's Planning Group	Senator Joyce Broadsword

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge

Vice Chairman Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, February 15, 2012
TIME: 3:00 P.M.
PLACE: Room WW54
MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Heider, Vick, Nuxoll, Bock, and Schmidt
ABSENT/ EXCUSED: Senator Smyser

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:05 p.m. and welcomed guests, including former **Senator Joe Stegner** who was in attendance.

SCR 112 **Stating Findings of the Legislature and Acknowledging the Seriousness of Alzheimer's Disease and Other Dementias in Idaho by Endorsing the Idaho Alzheimer's Planning Group (IAPG).** **Senator Joyce Broadsword**, District 2, introduced **Mike Berlin** with IAPG who thanked **Senator Broadsword** and **Senator Schmidt** for cosponsoring **SCR 112**. He advised that this resolution supports IAPG's comprehensive approach toward educating the public about Alzheimer's Disease and other Dementias, collecting and analyzing state wide data related to current and future needs for Alzheimer's patients, families and caregivers and recommended programs and strategies for addressing those needs.

Mr. Berlin stated that over the past 15 months IAPG established a Steering Committee made up of experts including researchers, current and former legislators, clinicians, educators, caregivers and representatives from local and national organizations such as AARP, the Alzheimer's Association, and the Commission on Aging - all of whom are volunteering their time for the cause.

He noted in particular, the work of **Dr. Barry Cusak**, Chief of Geriatrics, VA Hospital, Boise, ID, who is one of only five geriatricians in the State; **Dr. Sara Toeves**, Director, Boise State Center for the Study of Aging, who is involved in a variety of issues related to services for the elderly; and **Dr. Troy Rohn**, Professor of Biology, Boise State University, who is the preeminent researcher in the State of Idaho with regard to brain pathology of Alzheimer's and other chronic brain diseases.

Mr. Berlin presented a supporting letter from the national Alzheimer's Association (see Attachment #1), and a fact sheet prepared by the Alzheimer's Association (see Attachment #2). He stated that Alzheimer's is a non partisan issue that everyone should be concerned about. It is the only major cause of death in this country whose mortality rate is continuing to go up—all other major disease mortality rates are going down. He advised that 41 percent of Idahoans living in skilled nursing facilities have moderate to severe dementia and Idahoans currently diagnosed with Alzheimer's could fill Bronco Stadium. Once there is a diagnosis of Alzheimer's disease it is a fatal disease; there is no cure. It is financially devastating to both the state and family members as it takes years to die and caregivers are left mentally and physically exhausted. He noted that the fastest growing age segment in the State of Idaho is people 85 years of age and over. Support of caregivers in order to keep Alzheimer's patients safely at home would greatly reduce the cost.

Mr. Berlin stated IAPG obtained a grant from AARP to assist with data collection efforts. The Legislature's backing will assist IAPG in applying for other grants to fund recommendations that might come from data collection efforts, as well as provide legitimacy to the organization in approaching state agencies. Data collected to date indicates a need to expand education. IAPG's next step is to establish a Speaker's Bureau related to "Brain Health," and to continue to expand a statewide email list receiving a quarterly newsletter.

Mr. Berlin introduced **Dr. Cusak** who related typical stories of patients and families. He stated one thing they all have in common is shock when a diagnosis is made. He reviewed the progression of Alzheimer's which begins slowly with trouble remembering words, names, and recent events, and causes significant physical deterioration and suffering over the years. He advised the disease is very costly both individually and socially and emphasized that maintaining well being of caregivers is of prime importance. He stated many spouses become depressed in dealing with the additional burdens of caring for an Alzheimer's patient. He recommended a novel, "Still Alice," which emphasizes the early terror and state of denial of the Alzheimer's patient.

Dr. Cusak indicated pharmaceutical treatments available today do not deal with the pathogenesis of the disease and benefits are often not discernible. Providing education and support for the caregivers can delay the placement of the patient in an institution and add up to significant savings for the family and the state. He stated that risk is higher with family members and the only thing recognized today as a preventive benefit is physical exercise.

Dr. Toevs continued the presentation by discussing opportunities in Idaho to improve the spectrum of prevention, diagnosis, treatment, and caregiver support services for Alzheimer's disease and other dementias. She stated this is a statewide issue and is becoming front page news. There is a pressing need for access to information and affordable services. She noted Idaho has a tremendous record of looking at Medicaid Home and Community-based Service Waivers that support caregivers and emphasize trying to keep individuals in their homes and communities as long as possible. She also noted that we have a huge population of Idahoans who do not fall into Medicaid that need the support and reinforcement from their community to help them maintain their role as a caregiver.

Dr. Toevs stated that IAPG is not only active in research, but has people on the ground developing caregiver supports that will enable individuals to remain in their homes as long as possible. It is IAPG's contention that the development of a statewide plan will help them enhance quality of life, assure coordination of care, and use tax dollars efficiently.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

Chairman Lodge thanked all the presenters for the presentation and their volunteer work in this area.

Vice Chairman Broadsword requested that **SCR 112** be sent to the floor with a do pass recommendation.

Senator Nuxoll asked how the endorsement of a statewide plan by the Legislature, without providing any funding, would benefit the IAPG. **Vice Chairman Broadsword** advised that the Legislature's show of support for a statewide plan will give the Steering Committee the ability to go out and find grants and other funding. The hope is that they will come up with a plan that will have strategies the State of Idaho can use in dealing with people who already have Alzheimer's and are on Medicaid. It can save the state money in the long run. **Senator Nuxoll** also asked if there is any way to stop Alzheimer's deterioration. **Dr. Cusak** responded that recognizing and treating associated things like depression will improve function and make life more manageable, but there is no effective drug therapy to stop the deterioration. He added that drugs may slow down the trajectory of the decline but do not address brain activity.

Senator Schmidt related that an adult daycare health program for dementia patients, which has been operating in a hospital in his community, is considering closing because they cannot afford to keep it going. He is hoping this is the type of problem a state wide plan will address - how can we change policy to make appropriate application of efforts and provide appropriate care in the community.

Senator Heider questioned if the incidents of dementia are going up more rapidly because of the baby boomers and why people with dementia are living longer in Idaho than other areas of the country. **Mr. Berlin** stated that the baby boomers are definitely impacting the age group where dementia and Alzheimer's begins. Baby boomers are choosing to retire in Idaho where the cost of living is cheaper. He is not sure why people live longer in Idaho than other areas of the country, but does not feel the environment is a factor.

Senator Lodge stated she recently read an article indicating Alzheimer's could be caused by a virus. **Dr. Rohn** indicated new data suggests it is actually being transmitted between neurons. It is not really a virus.

TESTIMONY: **Peggy Munson**, AARP Idaho State Volunteer President and Geriatric Nurse, spoke in support of **SCR 112**. She stated that because finding solutions to this health problem is very important to AARP, it has invested time and money in IAPG to help carry out focus groups across the state.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #4).

TESTIMONY: **Dr. Rohn** indicated he has studied Alzheimer's disease for 15 years, but today, as a citizen of Idaho, he asks the Legislature's support for **SCR 112**.

TESTIMONY: **Louise Berlin**, a founding member of IAPG, related a family experience with Alzheimer's and requested support for **SCR 112**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #5).

MOTION: **Senator Heider** moved, seconded by **Senator Nuxoll**, that the Committee send **SCR 112** to the floor with a do pass recommendation. The motion carried by voice vote.

ADJOURN: **Chairman Lodge** recognized a group of youth from the Early Childhood Development Program at the College of Western Idaho who attended the meeting. There being no further business the meeting was adjourned at 4:24 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

AMENDED #1 AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, February 16, 2012

SUBJECT	DESCRIPTION	PRESENTER
Gubernatorial Appointment Hearing Only	Nick Purdy of Picabo, ID was appointed to the Board of Environmental Quality to serve a term commencing July 1, 2011 and expiring July 1, 2015.	Nick Purdy
Gubernatorial Appointment Hearing Only	John Randolph MacMillan of Buhl, ID was appointed to the Board of Environmental Quality to serve a term commencing July 2, 2011 and expiring July 1, 2015.	John Randolph MacMillan
Gubernatorial Appointment Hearing Only	Kevin C. Boling of Coeur d'Alene, ID was appointed to the Board of Environmental Quality to serve a term commencing October 11, 2011 and expiring July 1, 2015	Kevin C. Boling
PRESENTATION	Department of Health & Welfare Overview of Medicaid Managed Care	Leslie Clement
PRESENTATION	Page Recognition	Chairman Patti Anne Lodge

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge
Vice Chairman Broadsword
Sen Darrington
Sen Smyser
Sen Heider

Sen Vick
Sen Nuxoll
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken
Room: WW48
Phone: (208) 332-1319
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, February 16, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Bock, and Schmidt

ABSENT/ EXCUSED: Senator Nuxoll

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:07 p.m., and recognized former **Senator Kermit Kiebert** and his wife Susan, who were in the audience. **Senator Bock** also introduced, Philip and Teresa Mocettini, parents of the Committee Page, Abigail Mocettini. **Chairman Lodge** reordered the agenda, placing the Page Recognition first.

PRESENTATION **Chairman Lodge** commended **Abigail** for her outstanding performance as a Page for the Committee and for the whole Senate. She noted that **Abigail** has a bright future ahead of her and asked her to give the Committee an idea of her future plans. **Abigail** indicated she would like to study international relations or environmental science. She listed the colleges of her choice but has not yet selected where she will go. She advised she is a member of the softball team at Capital High School and may play at the college level. **Abigail** introduced new pages, Karl Lundgren from Buhl, and Kyle Son from Pocatello. **Chairman Lodge** presented **Abigail** with a jeweled State of Idaho Pin to remember her time in the Idaho Senate.

Chairman Lodge recognized **Toni Hardesty**, DEQ Director, thanked her for her service to Idaho, and asked her to introduce members of the DEQ Board in attendance. She introduced **Curt Fransen**, Deputy Director, and Board Members: **Dr. Joan Cloonan**, **Carol Mascarenas**, and **Kermit Kiebert**. She also introduced those members up for confirmation: **Dr. Randy MacMillan**, **Nick Purdy**, and **Kevin Boling**.

GUBERNATORIAL APPOINTMENT **Nick Purdy** of Picabo, ID was appointed to the Board of Environmental Quality to serve a term commencing July 1, 2011 and expiring July 1, 2015. **Mr. Purdy** indicated he has been on the DEQ Board since its inception in 2002. He is a farmer, rancher, and businessman, and stated his service on the Board has been very educational and from a cowboy's perspective he sometimes brings the Board members back to reality. He related how he has worked with the DEQ through business ventures and stated that he understands what the little guy has to go through in getting permits and understanding fees. **Mr. Purdy** complimented **Director Hardesty** for the wonderful job she has done in negotiating the needs of the Department and indicated he looked forward to continuing to work with her at the Nature Conservancy.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Senator Darrington commented that one of the greatest challenges DEQ faces is walking that line between those in the pure environmental movement and those who hate environmental laws and in resolving those kinds of conflicts to protect the environment within the law and not going to the extent that gets to nonuse of our resources. He asked how **Mr. Purdy** has been able to do that. **Mr. Purdy** indicated the tool DEQ has to provide that balance is called negotiated rulemaking and it is amazing how **Director Hardesty** and the staff have been able to use it.

Senator Darrington further noted that during the tenure of **Director Hardesty**, DEQ has done a good job of preserving primacy in certain areas. He asked **Mr. Purdy** to comment with regard to the importance of primacy to the citizens of the State of Idaho. **Mr. Purdy** agreed that State primacy is important and there are permitting tasks that could and should be handled by the State.

Chairman Lodge noted that the Picabo Ranch has been in the Purdy family for 129 years, which shows the family commitment to the land.

GUBERNATORIAL APPOINTMENT

Dr. John Randolph MacMillan of Buhl, ID was appointed to the Board of Environmental Quality to serve a term commencing July 2, 2011 and expiring July 1, 2015. **Dr. MacMillan** stated that he has worked for Clear Springs Foods for 21 years and is currently Vice President of Research and Environmental Affairs. He is active in national aquaculture issues, has served on a number of fish farming boards, the National Aquaculture Association, and has done a fair amount of work at USDA. He brings knowledge to the Board in the area of water quality issues and has experience in the area of food safety and animal disease issues. He agrees with **Mr. Purdy** that negotiated rulemaking provides an important balance between business and environmental issues. It is his experience that industry really does want to be a good environmental steward. They just want their stewardship to be cost effective and not put them out of business. Where they struggle sometimes with some of the environmental groups is that those groups use passion and emotion to try to define what industry should do rather than rely on best available science as required of DEQ in Idaho Code, Section 39-107D.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

Senator Darrington asked if **Dr. MacMillan** is dissatisfied with the Code language "no more stringent than," as it relates to RCRA regulations and hazardous materials, or if it works well. **Dr. MacMillan** indicated that language has been very effective, but he does see some opportunity to improve on it. He would like to eventually see a requirement that the regulatory decision be based on good solid science. His view is that if the Department and the experts in the department focused on sediments and trying to reduce the accumulation of nutrient rich sediments you probably would meet state water quality standards far quicker than you ever will with the focus on dissolved nutrients.

Senator Heider commented that **Dr. MacMillan** understands the aquifer and water quality issues better than anyone he has ever met, protects our Snake River Water System, and runs a business that is the largest exporter of fish in the World. He is an outstanding individual and they are privileged to have him on the DEQ Board.

Senator Broadsword recalled that at **Dr. MacMillan's** first confirmation hearing there was concern by a member of the Committee, who is no longer in the Legislature, that he could not come from industry and be impartial on the Board. His record shows that you can come to the Board from industry and be impartial and help drive the train down the tracks in the right direction.

GUBERNATORIAL APPOINTMENT **Kevin C. Boling** of Coeur d'Alene, ID was appointed to the Board of Environmental Quality to serve a term commencing October 11, 2011 and expiring July 1, 2015. **Mr. Boling** indicated he has been an Idaho resident since 1971, and is a graduate of the University of Idaho. He has spent his career in the forestry industry, including three years as a lobbyist managing Potlatch's government affairs. Being a part of the regulated communities gives him a common sense approach to the very complicated, difficult issues dealt with by DEQ in the State of Idaho.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

Senator Darrington asked **Mr. Boling** to comment on whether he agrees with the previous responses on the subject of primacy. **Mr. Boling** responded he does. He stated that having to deal at arms length with people in Seattle regarding water quality issues in Idaho is an unnecessary complication.

Chairman Lodge thanked the three Gubernatorial Appointees for appearing before the Committee and advised that a vote on their nominations would be taken at the next meeting. She also wished **Director Hardesty** the very best in her new position with the Nature Conservancy.

PRESENTATION **Department of Health and Welfare Overview of Medicaid Managed Care.** **Leslie Clement**, Deputy Director, Department of Health & Welfare (Department), advised that H 260 passed by the 2011 Legislature directed Medicaid to begin to incorporate managed care tools to foster an improved accountability and health outcome. The Department's biggest challenge is to develop strategies to make Medicaid sustainable.

Ms. Clement advised that Medicaid is an entitlement program driven by federal law to ensure certain low income and disabled individuals obtain health care services to meet their needs. She advised that total enrollment is 235,000 and while 75 percent are relatively healthy children, the elderly and people with disabilities drive most of the cost. She reviewed Medicaid participation by county (see Attachment #4a, #4b, and #4c), and advised that under Health Care Reform it is estimated an additional 100,000 Idahoans will become eligible for Medicaid in 2014. New eligibles will include uninsured, non-elderly adults who have incomes below 133 percent of the federal poverty limit (FPL) and that this newly eligible population will be 100 percent funded by the federal government until 2016; that funding will decrease to 90 percent by 2020.

Ms. Clement indicated that after three years of benefit and pricing reductions, Idaho has exhausted short-term budget strategies to control growth. In reviewing other states' procedures, she noted that 26 states contract with managed care organizations and budget pressures and interest in improving service delivery and payment systems are causing plans in many states to expand the use of managed care. She advised that Idaho's limited experience with managed care has been positive.

Ms. Clement advised that in 2012 the Department has met with in-state experts and stakeholders to determine what Idaho should do relative to Medicaid Managed Care. She reviewed legislative direction including an updated actuarial analysis for Medicaid Managed Care and provided a list of savings opportunities. Actuarial data reveals that the most common chronic conditions among the non pregnant adult population are mental illness, diabetes, and seizure disorders. She indicated that with just focusing care management efforts around two chronic conditions, diabetes and major depressive bipolar and paranoid disorders, there is an opportunity to improve the care and reduce the cost.

Ms. Clement then reviewed managed care opportunities identified in the Actuarial Report by Medicaid sub-populations and indicated the Department would be focusing on the top 5% of each population as that is where the high cost individuals are. The Department has also talked with Oregon and Utah Medicaid program experts to share the good, the bad, and the challenges of managed care in those states. She indicated experience shows a high level of satisfaction and access as well as better cost predictions under a managed care plan. The "bad" is that capitation does not always align with good health policy and federal laws must be adhered to. Among the challenges are resistance to change and provider capacity. Both states are reforming plans with changes anchored on the Medical Home with an emphasis on improved care coordination.

Ms. Clement reported that the Department has engaged the public, advocacy groups, and providers in public forums related to managed care during 2011. She stated that in the Behavioral Health area, the forum emphasis was on building a system that does a better job than the one we have today, emphasizing the right place of service at the right time. The Dual Eligible discussion explored health plans interests in collaborating with Idaho Medicaid to test a financing model using capitation and enter into a contract with CMS to provide comprehensive seamless coverage. The Department invited long-term care experts to join in a forum discussing how to best address dual eligible's service and support needs in the move to managed care. The Managed Care Forum engaged medical and health care experts in a discussion about Idaho Medicaid Managed Care approaches that will be supported by hospitals, physicians and Community Health Centers.

Overall messages received from hospitals and health systems were positive with an emphasis on the importance of electronic health records and a caution about commercial insurance companies being another layer between Medicaid and providers. There is a capacity concern as Idaho is 49th among the states in physician/patient ratio and access will be important. The Patient-centered Medical Home is a key element of Medicaid Managed Care and can improve care coordination, increase efficiency and improve health outcomes.

Ms. Clement advised that Application has been made for technical assistance from the National Association of State Health Policy to adopt/adapt North Carolina Community Care Model. If approved, this will allow travel and training in North Carolina where they have managed Medicaid services through community provider networks anchored by the patient-centered medical home.

Ms. Clement reviewed the status of Health Systems development and current Medical Home pilots and initiatives, as well as budget requests. She stated that although they have targeted implementation dates for the programs, the Department's emphasis is on getting it right rather than trying to meet a particular implementation date.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #5).

Vice Chairman Broadsword asked what the cost for Managed Care design and development is and whether it is in the Governor's recommended budget. **Ms. Clement** advised the amount of \$644,000, with 50 percent being a general fund request, is in the Governor's recommendation.

Senator Vick asked if Idaho's 49th percentile ranking in physician/patient ratio includes all doctors, or just those providing Medicaid and Medicare services. **Ms. Clement** responded "all doctors." **Senator Vick** asked if there is an explanation for that. **Ms. Clement** advised that a lot of states are struggling with primary care ratios. Not having a medical school in Idaho could impact this and the fact that primary care physicians are reimbursed less than specialty physicians could also be a factor. **Senator Vick** noted the actuarial overview indicates average number of enrollees is up about 16 percent and total spending is up about 25 percent; he asked what is driving that cost and why Physical Health is way up and Long Term Care is down. **Ms. Clement** indicated the Department has asked the actuaries for an explanation on those trends. She did advise that other state Medicaid fee for service programs are seeing this same increase. She noted that Developmental Disability services is reported under Physical Health and those services are a high cost item. With regard to the decrease in Long Term Care she advised that some prices were reduced in this area and it does not include upper payment limits.

Senator Heider noted in the presentation there was an indication that the Medicaid currently pays for volume rather than value, and asked why the Department does not track outcomes. **Ms. Clement** stated that as much as the Department wants good outcomes, the current fee structure of paying a fee for service does not really allow tracking outcomes. She indicated we now have an opportunity to work with health care providers to try to identify ways to reform the payment system; it is a big task and we must approach it in a better way together. She stated that whoever is paying the bill is going to be most motivated to try to get things done differently and that is the Department's task.

Vice Chairman Broadsword commented that in some cases if there were other support services out there that provided what that person really needs – somebody to listen to their problems – they would not be seeing the doctor. **Ms. Clement** said that is a really good point and part of the medical home idea is the team based approach of having people practice at the level they were trained to perform.

Chairman Lodge thanked **Ms. Clements** for the informative presentation and recognized **Tom Shanahan**, Public Information Manager, Department of Health & Welfare, for his technical assistance during the presentation.

Chairman Lodge called the attention of the Committee to an article from the Idaho Press Tribune (see Attachment #6) related to community efforts in helping the needy trade services for dental care, stating this is an example of how the needy can access services before going to Medicaid.

ADJOURN: There being no further business, the meeting was adjourned at 4:43 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

AMENDED #1 AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, February 20, 2012

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of the minutes of the February 1, 2012 meeting.	Senators Heider and Schmidt
Gubernatorial Appointment Vote Only	Nick Purdy of Picabo, ID was appointed to the Board of Environmental Quality to serve a term commencing July 1, 2011 and expiring July 1, 2015.	
Gubernatorial Appointment Vote Only	John Randolph MacMillan of Buhl, ID was appointed to the Board of Environmental Quality to serve a term commencing July 2, 2011 and expiring July 1, 2015.	
Gubernatorial Appointment Vote Only	Kevin C. Boling of Coeur d'Alene, ID was appointed to the Board of Environmental Quality to serve a term commencing October 11, 2011 and expiring July 1, 2015.	
<u>S 1294</u>	Relating to the Medical Consent and Natural Death Act	Robert L. Aldridge

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge

Vice Chairman Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken

Room: WW48

Phone: (208) 332-1319

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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, February 20, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Vick, Nuxoll, Bock, and Schmidt

ABSENT/ EXCUSED: Senator Heider

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:05 p.m. and asked the new pages, to tell the Committee about themselves. **Kyle Son**, of Pocatello, is sponsored by **Senator Bilyeu**. He attends Century High School where he enjoys being a part of the soccer varsity team. **Karl Lundgren**, of Buhl, is sponsored by **Senator Heider**. He is home schooled, runs cross country and track, and enjoys other outdoor activities. **Senator Bock** also introduced **Victor Bustamonti**, a Canyon County student visiting the Legislature.

MINUTES APPROVAL: **Senator Schmidt** moved, seconded by **Senator Nuxoll**, that the minutes of the Meeting of February 1, 2012 be approved. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE ONLY **Senator Darrington** moved, seconded by **Senator Schmidt**, that the Committee send the gubernatorial appointment of **Nick Purdy** to the Board of Environmental Quality to the floor with the recommendation that it be confirmed by the Senate. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE ONLY **Senator Broadsword** moved, seconded by **Senator Schmidt**, that the Committee send the gubernatorial appointment of **John Randolph MacMillan** to the Board of Environmental Quality to the floor with the recommendation that it be confirmed by the Senate. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE ONLY **Senator Vick** moved, seconded by **Senator Smyser**, that the Committee send the gubernatorial appointment of **Kevin C. Boling** to the Board of Environmental Quality to the floor with the recommendation that it be confirmed by the Senate. The motion carried by **voice vote**.

S 1294 **Relating to the Medical Consent and Natural Death Act.** **Robert L. Aldridge**, Attorney, on behalf of the End of Life Committee, stated this bill, which has been worked on and reviewed extensively for several years, will greatly clarify the law on Physician Orders For Scope of Treatment (POST) forms. He reviewed the definition of terms which have been added or clarified in this legislation. He advised the priority for care decisions has been updated to clarify who can make decisions and in what order, with two additions: 1) adult child of such person; and 2) parental delegation of authority under *Idaho Code*, Section 15-5-104. He indicated that with regard to health care decisions made by others, the legislation deletes obsolete language and defines standard of comprehension required of the person making the health care decision, as well as making it clear that those making health care decisions cannot act contrary to the person's advance directives or expressed wishes done while the person was capable of consenting to their own care. The legislation has been updated to include Physician Assistant and Advance Practice Professional Nurse to those who can sign a POST on the medical side. Under

Revocation, the word "intentionally" has been added to method of destruction of the document.

A new Section has been added to clarify how a power can be suspended and then revived. The legislation clarifies when a person can wear POST jewelry and also clarifies the relationship between POST and Do Not Resuscitate (DNR). He noted that a DNR is a doctor's order directed to a single institution and EMS personnel do not have to abide by a DNR but will recognize the POST jewelry.

Mr. Aldridge stated that the overall purpose of the POST and of the Medical Consent and Natural Death Act in general is to give effect to any authentic expression of a person's prior wishes or directives concerning their health care. He requested that the Committee send **S1294** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Senator Darrington asked for a definition of the relationship between the POST and DNR. **Mr. Aldridge** advised that a DNR is a doctor's order directed to an institution; it is very limited. He stated that a patient can request a DNR, but it is a doctor's order. The POST is also a doctor's order but is done in coordination with the patient or surrogate of the patient, so it expands what the DNR was able to do; it is much broader. He further stated that if there is a DNR and then a POST done at a later date, that POST would override the prior DNR.

Senator Schmidt asked if the list of individuals who may give consent to care for others is consistent with other states or unique to Idaho. **Mr. Aldridge** advised that most states conform to this order, however, a delegation of parental authority is unique because that was created in Idaho. **Senator Schmidt** also asked who determines whether the surrogate is of sufficient comprehension as to his or her own health care. **Mr. Aldridge** indicated that decision would be made by the treating medical personnel. What they would be looking for is whether the person understands.

TESTIMONY: **Rick Bassett**, representing St. Luke's Hospital, spoke in support of **S 1294**, advising it will broaden the availability of POSTs in rural counties of Idaho.

TESTIMONY: **Julie Lynde**, Executive Director, Cornerstone Family Council, Inc, advised her organization is in support of **S 1294** and on behalf of **Jason Herring, Ms. Lynde** advised Right to Life is also in complete support of **S 1294**.

MOTION: **Senator Nuxoll** moved, seconded by **Senator Smyser**, that the Committee send **S 1294** to the floor with a do pass recommendation. The motion carried by **voice vote**. Senator Bock will sponsor **S 1294** on the floor.

Chairman Lodge thanked **Mr. Aldridge** for his commitment to this legislation.

ADJOURN: **Chairman Lodge** advised the Committee that she had called back from the floor **S 1281** because there are some questions about how private adoptions will be affected by the desire to have foster children be adopted and given a permanent home. Until those involved work it out, we will hold in Committee with your approval. No objections were voiced. The meeting was adjourned at 3:40 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, February 23, 2012

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of Minutes of the January 17, 2012 Meeting	Senators Vick and Bock
Minutes Approval	Approval of Minutes of the February 6, 2012 Meeting	Senators Smyser and Bock
S 1309	Relating to Retail Sales of Pseudoephedrine Products	Senator Joyce Broadsword

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge	Sen Vick
Vice Chairman Broadsword	Sen Nuxoll
Sen Darrington	Sen Bock
Sen Smyser	Sen Schmidt
Sen Heider	

COMMITTEE SECRETARY

Lois Bencken
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, February 23, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:05 p.m.

MINUTES APPROVAL **Senator Vick** moved, seconded by **Senator Bock**, that the minutes of January 17, 2012 be approved. The motion carried by **voice vote**.

MINUTES APPROVAL **Senator Smyser** moved, seconded by **Senator Bock**, that the minutes of February 6, 2012 be approved. The motion carried by **voice vote**.

S 1309 **Relating to Retail Sales of Pseudoephedrine Products.** **Vice Chairman Broadsword**, District 2, stated this is a bill designed to keep people from purchasing illegal amounts of Pseudoephedrine (PSE) for purposes of methamphetamine production. Members of her local law enforcement agency requested she sponsor this legislation related to getting a real time, online tracking program in place for PSE sales. They expressed frustration at the cost and manpower time involved in going from pharmacy to pharmacy to pick up copies of handwritten logs that the current law requires. She stated they provided evidence of logs with the same names on the same dates for several different pharmacies as proof that buyers purchase PSE from several different pharmacies in a short period of time.

Vice Chairman Broadsword noted that the Sheriff's Association, the Police Chief's Association, the Idaho State Police, the Board of Pharmacy, the Retailer's Association and the Idaho Pharmacy Association all support this legislation.

Vice Chairman Broadsword advised that under the bill the Board of Pharmacy (BOP) will contract for an online tracking system which will be used by pharmacies to track sales of PSE. The suppliers of PSE products have an agreement to fund the online tracking program and there is no cost to the state or to the pharmacy for this tracking system. The system will indicate when an individual has purchased the maximum legal limit of PSE and will block the sale, giving the purchaser a phone number to call for an explanation of why the sale is blocked. She advised that there is one major supplier of an online program called NPLeX, developed by Appriss, which is now used by 17 states and an additional 4 states have legislation pending. She stated the legislation allows pharmacies the option of asking for a waiver from BOP if they have no access to the internet.

TESTIMONY: **Daniel Quinonez**, on behalf of the Consumer Healthcare Products Association (CHPA), spoke **in support of S 1309**. He stated CHPA is the leading manufacturer of over the counter medicines. He advised federal law limits PSE purchases to 3.6 grams per day and 9 grams per month and mandates that pharmacies use paper logs to track sales. The use of paper logs is not effective or efficient for either the pharmacy or law enforcement. The NPLeX system is an industry solution requiring identification that will be scanned by the pharmacy and will block the sale if the

daily or monthly PSE purchase limits have been reached. Attempted sales by the individual at other pharmacies will also be blocked. He advised this will not be 100 percent effective in stopping Methamphetamine use, as 80 percent comes from Mexico, but this can help us control what happens in our community. Law enforcement will be given a pass code enabling them to access the system. He stated Methamphetamine labs are a great risk to law enforcement personnel and this information will give them an awareness of a potential Methamphetamine lab before entering a building.

Senator Bock asked if raw materials used in Mexico for the manufacture of Methamphetamine come from the U.S. **Mr. Quinonez** responded that they come mostly from Asia, China and other countries. **Senator Bock** noted that this is a relatively intrusive way of monitoring PSE use considering much of the drug comes from outside the U.S. **Mr. Quinonez** indicated that federal law mandates photo ID for purchase and a logbook record by the pharmacy; this electronic system speeds up the process.

Responding to a question from **Senator Schmidt** regarding the funding mechanism, **Mr. Quinonez** advised funding is provided by the manufacturers of PSE to the company maintaining the database in Kentucky and there would be no cost to taxpayers. He further advised that neither his organization nor the companies it represents have access to this data. They do, however, get a monthly report on how many grams have been blocked.

Senator Darrington asked how long the data is maintained in the system and whether sufficient security measures are in place to keep out hackers. **Mr. Quinonez** indicated the Company works with Homeland Security, is audited by the FBI, and follows the highest protocols in terms of protection and use. Info is held for at least one year and up to 2 years. **Senator Heider** asked if any surrounding states are among the 20 states that use the system now. **Mr. Quinonez** identified Washington, the Dakotas, and indicated Montana and Nevada are working on it. **Vice Chairman Broadsword** indicated Utah requires a prescription for PSE, so they do not have the problem.

TESTIMONY:

Mark Johnston, Director, Idaho Board of Pharmacy (BOP) advised that BOP supports S 1309 and thanked **Vice Chairman Broadsword** for allowing BOP to be an active participant in drafting this legislation. He stated BOP fully accepts the responsibility that the bill places on it, including implementation of the program and accepting applications for exception.

Senator Darrington asked if BOP will be promulgating rules as to how the data is kept. **Mr. Johnston** indicated there is rulemaking authority within the bill. **Senator Vick** asked what information must be collected in this process and how much 3.6 grams would be. **Mr. Johnston** indicated they would collect the individual's name, address, signature (either written form or electronically stored), type of photo ID presented, number on ID and issuer, date and time of sale – this can all be done by scanning the photo ID. He advised that 3.6 grams would be 120 tablets.

Senator Heider asked why law enforcement would be involved if the system itself controls the sale and the volume, as no law would be broken in an attempt to purchase. **Mr. Johnston** indicated that if there are continuous blocked sales that information would be valuable to law enforcement, but ultimately the hope is that this will curtail a lot of illegal activity.

TESTIMONY: **Shane Hight**, Detective, Bonner County Sheriff Department, spoke **in support** of **S 1309**. He has worked narcotics for nine years and has seen different types of Meth labs and the effects on children in the homes. He noted a recent case where six small children were in the home and the investigation took nine months to complete. He stated the NPLeX system would shorten investigation time, tie law enforcement together, and be less intrusive on the pharmacies.

Senator Schmidt asked if it is **Mr. Hight's** experience that those who are cooking Methamphetamine get PSE locally. He indicated they do, but they also travel to surrounding counties and states. **Senator Bock** asked what quantity of PSE is necessary to make cooking Methamphetamine economically viable. **Mr. Hight** indicated this problem is addict driven and there are a lot of one-pot cooks; they purchase just enough to use and sell so they can purchase more PSE and they are constantly in business. He stated those are the ones who are dangerous because they have chemicals in their houses all the time. Those who are going to several pharmacies to purchase large amounts are more profit driven.

TESTIMONY: **Barbara Jordan**, representing the Idaho Trial Lawyers Association (ITLA), stated ITLA takes **no position** on **S 1309**. It does take exception to Section 37-3303A(6)(a) related to civil damage liability. She pointed out the inconsistency of requiring the pharmacies to put the system in and utilize the system and then basically say that they could be negligent in using that system, but there is no penalty for that.

Senator Bock asked if ITLA was also concerned about section (6)(b). **Ms. Jordan** indicated they are not; (6)(b) helps the pharmacy. If there is a breach to the system or the system fails, they are not responsible and that is very reasonable.

TESTIMONY: **Jim Tibbs**, Retired Law Enforcement Officer, Idaho's first Drug Czar, and currently a member of the Idaho Criminal Justice Commission, spoke **in support** of **S 1309**. He stated this legislation does not gather any additional information than what is already required and has the impact of efficiency and effectiveness, while allowing for a waiver if a pharmacy cannot meet the technical requirements.

Senator Darrington discussed the provisions in the bill that make it optional for the pharmacy to participate and standard of liability clause objected to by the ITLA. **Mr. Tibbs** indicated there are provisions for waivers for the pharmacy if there is a hardship but they would need to apply for that waiver. Related to liability, he stated that from a practical standpoint the statute has some protections against very innocent actions, but in the case of gross negligence there would be some liability on the part of the pharmacy.

TESTIMONY: **Elizabeth Criner**, representing Pfizer Pharmaceuticals, spoke **in support** of **S 1309**. She advised that Pfizer manufactures allergy over-the-counter medications with PSE components and participates in the NPLeX system funding. She stated **S1309** is a great step in achieving the challenging balance of making allergy and cold relief medications available for appropriate use and controlling the abuse of the drug.

Senator Schmidt asked what amount Pfizer contributes to NPLeX. **Ms. Criner** indicated she did not have those figures, but advised all manufacturers of generic or brand over-the-counter products containing PSE help contribute.

TESTIMONY: **Mike Kane**, representing Idaho Sheriff's Association and Appriss, spoke **in support of S 1309**. He reviewed the history of laws related to the control of PSE, and stated it is a very effective allergy and cold medicine. It is not the intent of this legislation to block the use, but control the dangerous home cooking of Methamphetamine. He stated the paper logbook served its purpose but people have found a way around it by visiting multiple pharmacies. The NPLeX system is no cost to the pharmacy, it is fully funded by the manufacturers of PSE, and was created by Appriss, a company out of Louisville, Kentucky, which maintains a computer database of info collected from the pharmacies. Data is kept according to federal law for 2 years and then deleted. He advised that 3.6 grams equals a 15 day supply. With regard to the questions on the immunity clause, he noted that this bill requests that the pharmacy industry partner with the State of Idaho and local law enforcement by helping stop Meth labs. This gives the pharmacy the same protection as the Idaho Tort Claims Act which is designed to protect government from being sued every time they do something someone does not like.

Senator Bock stated he is uncomfortable with the liability section and asked if this bill was drafted by **Mr. Kane's** client. **Mr. Kane** advised that it is actually a model bill used by the other states participating in the program.

Senator Schmidt asked if financial information is available for Appriss. **Mr. Kane** indicated it is a private, for profit, company and is not traded on the NYSE. **Senator Schmidt** commented that It appears this is a good real time tracking product, and asked why it is not used for prescription narcotics. **Mr. Kane** stated that may be in the future. He advised Appriss is a very vibrant corporation and is consistently seeking new ways of using this technology; right now they are focusing on PSE.

Senator Darrington commented that big chains will jump on this, other independents may say they are sick of the government, don't want to go to the BOP for a waiver, and don't want a computer in the store, and they will just continue to keep the paper log. He asked if this legislation is adequate to enjoin those individuals in court. **Mr. Kane** responded that many of the big chains are already on this on their own nickel. As far as enjoining them and forcing this down their throats, that is not what we are talking about. If they want to keep the paper logs that will be allowed.

Vice Chairman Broadsword thanked the Committee and related that because of a recent cold she went to the pharmacy and was advised to take Sudafed and other cold remedies. She produced her driver's license and purchased Sudafed. The pharmacy scanned her license and she signed their logbook. She stated that under this legislation the procedure would be the same, except the information would be sent to the computer database. She advised that S 1309 mirrors federal law and that any pharmacy violating the provisions of the law is subject to federal penalties. The BOP has authority to discipline any pharmacist or pharmacy not following Board Rules. So even if there is no civil penalty they will be held liable by the Board for any infraction that the Board feels is a violation. She stated this legislation will stop people who abuse the drug, but allow those who need it access.

**RULE 39H
DECLARATION:** **Senator Smyser** provided **Chairman Lodge** with written notice and declared to the Committee, pursuant to Senate Rule 39H, that she may have a possible conflict with this legislation, but does intend to vote.

MOTION: **Senator Heider** moved, seconded by **Senator Vick**, that the Committee send **S 1309** to the floor with a do pass recommendation.

**SUBSTITUTE
MOTION:** **Senator Bock** expressed concern about the liability language in the bill and made a substitute motion that the Committee send **S 1309** to the 14th Order for possible amendment. The **motion died** for lack of a second.

**VOTE ON
ORIGINAL
MOTION:**

Chairman Lodge called for a vote on the original motion that the Committee send **S 1309** to the floor with a do pass recommendation. The motion carried by **voice vote**.

ADJOURN:

Chairman Lodge thanked those testifying on this legislation and adjourned the meeting at 4:02 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, February 27, 2012

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of Minutes of the January 18, 2012 Meeting	Senators Darrington and Schmidt
S 1295	Relating to Regulation and Licensure of Massage Therapists	Suzanne Budge
S 1326	Relating to Vocational Rehabilitation	Senator Joyce Broadsword

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge	Sen Vick
Vice Chairman Broadsword	Sen Nuxoll
Sen Darrington	Sen Bock
Sen Smyser	Sen Schmidt
Sen Heider	

COMMITTEE SECRETARY

Lois Bencken
Room: WW48
Phone: (208) 332-1319
email: lbencken@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, February 27, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:05 p.m.

MINUTES APPROVAL **Senator Schmidt** moved, seconded by **Vice Chairman Broadsword**, that the minutes of January 18, 2012 be approved. The motion carried by **voice vote**.

S 1295

Relating to Regulation and Licensure of Massage Therapists. **Senator Hammond**, District 5, advised that this legislation recognizes the value and the legitimacy of massage therapy both as a meaningful contribution to healing and a sustainer of better health by providing a process for licensing massage therapists. Currently, anyone may advertise themselves as a massage therapist regardless of their level of training or lack thereof. He stated that requiring a license of professional and trained massage therapists will insure that citizens seeking this form of therapy will receive appropriate care. **Senator Hammond** introduced **Suzanne Budge** who represents the American Massage Therapy Association (AMTA), Idaho Chapter.

Ms. Budge acknowledged a broad group of representation supporting the bill in attendance, all of whom are volunteers in their various professional organizations. She stated they had introduced the framework of the bill last year and worked on it with all the stakeholder groups during the interim, including the Bureau of Occupational Licensing and State Board of Education, who will implement the bill. She advised those who practice massage therapy are independent contractors and small business owners who often work between different municipalities, as well as in hospitals and other health care settings. **Ms. Budge** introduced **Paul Westin**, AMTA, Government Relations Chair, Idaho Chapter.

Mr. Westin stated the Idaho Chapter is comprised of 300 massage therapists; as a Chapter, they support **S 1295**. He stated the bill defines the practice of massage therapy, and creates entry level training and educational standards for massage therapy professionals. It does not overregulate the practice but protects both practitioners and the citizens who rely on them. He advised that in addition to the 300 AMTA members, the Associated Body Work Massage Professionals (ABWM) has 600 members, and there are an estimated 300 independent practitioners in Idaho.

Vice Chairman Broadsword asked if the AMTA intends that a Board be appointed to develop rules which would come back to the Committee for approval in the next legislative session. **Mr. Westin** replied that is correct.

Senator Darrington asked for confirmation that approximately 25 percent of massage therapists in the state are unlicensed, and if AMTA expects opposition when they come back with rules for consideration. **Mr. Westin** responded 25 percent is correct, and that there is always the possibility for opposition; however, they have worked very hard across the board - not only with the massage therapy associations but with other groups within the state - to alleviate as much potential opposition as possible. **Senator Darrington** expressed his uncertainty as to why Idaho is vulnerable just because surrounding states have licensure regulation, and asked what the safety threat is to non-licensure. **Mr. Westin** advised an example of a safety threat would be a therapist who is not properly trained being unable to recognize a potentially dangerous situation such as a deep vein thrombosis that, if massaged too vigorously, could dislodge resulting in a stroke.

TESTIMONY:

Crystal Spicer, a massage therapist and body worker for 12 years, who is licensed in another state as well as with the City of Boise spoke **in opposition to S 1295**. She stated the potential for injury in massage therapy is very small and this may account for low insurance premiums. She noted many massage therapists work part-time; the additional cost of licensure will be an undue hardship.

Vice Chairman Broadsword asked what the fee is for licensure in the city of Boise. **Ms. Spicer** responded she believes it is \$35 and licensing fees in this bill could be as high as \$200. **Vice Chairman Broadsword** related that the bill states the \$200 fee is a cap, and that most boards under the Bureau of Occupational Licenses set their fees based upon the number of licensees and how much they need to operate that board. She believes that the potential for 1,200 licensees would not necessitate such a high fee for licensure.

Senator Schmidt asked **Ms. Spicer** if she belongs to either of the two professional massage therapist associations and, if so, why she became a member. **Ms. Spicer** replied she belongs to the AMTA. She joined the AMTA because the city of Boise requires that therapists be a member of a massage therapist association.

Vice Chairman Broadsword asked that other testimony address who is grandfathered in this legislation and whether everyone currently practicing will be required to be licensed. She also asked that the pre-emption of local regulation issue be addressed.

TESTIMONY:

Jean Robinson, Government Relations Director, ABMP, spoke **in support of S 1295**. She stated claims do occur and a review of Idaho claims over the past five years ranges from hot stone burns to rotator cuff damage. She added that although insurance costs have risen, ABMP has not had to share that cost with members because they keep growing in membership and they now have 700 members. She advised that it is not ABMP's goal to put anyone out of business, and their research indicates almost everyone will be able to qualify for the grandfathering provision. They have attempted in this legislation to accommodate as many existing massage therapists as possible.

In response to **Vice Chairman Broadsword's** question about the pre-emption of local regulation, **Ms. Robinson** advised that it is not uncommon for a local jurisdiction to require a massage therapist to be licensed and also require a business license. She stated their desire is that state law supercede local licensing requirements for massage therapists and then the local area could request that a massage therapist show their state license and then charge a small fee for a business license.

Vice Chairman Broadsword asked if license applications will be released before rules are adopted. **Ms. Robinson** responded, "No," and if wording in the bill needs to be revised to accommodate that, they will do so.

Senator Vick asked if the associations have considered setting requirements and issuing certificates without involving the State. **Ms. Robinson** advised that ABMP has done so for the past 25 years and the AMTA has done so for 40+ years and while they can refuse membership, only the state has the authority to discipline or revoke a license.

Senator Schmidt asked if **Ms. Robinson** supports massage therapists in other states who may be having difficulties with their board. **Ms. Robinson** responded she does. ABMP has 80,000 members nationwide and it is part of her job to deal with massage therapist members who are having difficulty in getting their license or perhaps have a disciplinary issue. She stated they have adopted in this legislation the best practices from other states.

Senator Schmidt commented that small professional organizations sometimes run into financial problems when they have to deal with costly disciplinary issues. He asked if they have compared other states of similar size in number of practitioners and the frequency of disciplinary issues. **Ms. Robinson** replied that nationwide, one percent of massage therapists who are licensed by the 43 states that already license are disciplined.

Senator Heider noted one of the requirements for licensure is good moral character, and asked how that is determined. **Ms. Robinson** advised that language is taken directly from Bureau of Occupational Licensing verbiage relating to other boards. It is a phrase they are very used to working with and prefer it to be broad so that they can decide what to ask for during the process of developing the rules and regulations.

Senator Darrington commented that the terms "moral character," "good moral character," and "moral turpitude," which are frequently used throughout *Idaho Code*, have considerable case law associated with them. He asked if that was taken into consideration when it was included in this legislation. **Ms. Robinson** deferred to **Suzanne Budge**, who stated that they worked closely with the Bureau of Occupational Licensing and its attorney on this issue. They were warned it is a term that may be questioned, but it is consistent in how it pertains to licensing acts.

TESTIMONY:

Suzie Lindberg, a small business owner/sole proprietor, practicing massage therapy for nine years in Boise, testified **in support of S 1295**. She stated the current situation is very prohibitive to growing her business. She stated if she were to attempt to outcall to clients around the Treasure Valley area, she would not only incur the Boise license fee, but also a charge from Meridian and another from Garden City. Additionally, through those municipalities she would endure a background check, fingerprinting and, in some places, the requirement for letters of reference or recommendations.

Vice Chairman Broadsword commented there is nothing in this legislation that would require a background check or fingerprinting; she asked if this is something that might come through rule. **Ms. Lindberg** deferred to **Ms. Robinson**, who replied they could very well require a background check through the moral character inclusion, but do not have to do so.

TESTIMONY: **Kris Ellis**, on behalf of the Northwest Career Colleges Federation, testified **in support of S 1295**. She addressed how this legislation differs from other licensure laws that have been a problem in the past. Key is that the schools are identified and must be registered with the State Board of Education. **Ms. Ellis** reported there are 13 massage schools in the state that are registered with the board, as well as others through the universities that are exempt in that process. Additionally, **Ms. Ellis** stated that a background check is helpful for people in Idaho. The legislation also gives the board the ability to use other avenues of verifying moral character if someone is licensed in another state, such as calling that licensure board to verify whether or not there were complaints or issues with the therapist.

TESTIMONY: **Susan Beck**, Massage Therapy Program Coordinator, Department of Health Occupation, College of Technology, Idaho State University (ISU), spoke **in support of S 1295**. **Ms. Beck** stated they are one of the 13 registered massage therapy schools in Idaho, and are the only university-based program in the United States. At ISU, they offer both a technical participant and associates of applied science which articulates to a bachelor of health science. They teach to a much higher standard than the national standard minimum of 500 hours. **Ms. Beck** expressed it is their philosophy that massage therapists should have a similar health science background as any other health occupation in their college. Massage therapists usually work in one-hour increments with clients; therefore, they must have in-depth knowledge of anatomy, physiology, kinesiology, pathology, and medical terminology. Additionally, she stated ISU offers courses in theory, basic skills, equipment and supplies, assessment, treatment planning and charting, working with special populations (individuals with injuries, etc.), and research. She added that they teach business and have a very strong background in ethics and boundaries.

TESTIMONY: **Tricia Pennell**, President, Idaho Chapter of the American Massage Therapy Association (AMTA), spoke **in support of S 1295**. She stated she has gone through specialized training for working with cancer patients and currently is working with a client who is undergoing chemotherapy treatment which affects her kidneys. **Ms. Pennell** advised without her training and background, she would not be aware that she should not work on this client when her kidneys are not functioning properly due to the treatments.

Senator Vick asked if licensing would require that massage therapists who are working with cancer patients receive this specialized training. **Ms. Pennell** responded, no, however, licensing of massage therapists would be an avenue for the general public to know that there are therapists available who have had training in such specialized areas.

WRITTEN TESTIMONY: **Ryan Fitzgerald**, representing the Idaho Association of Chiropractic Physicians, presented written testimony **in support of S 1295** (see Attachment #1).

Suzanne Budge stated this is a professional organization that is changing and evolving in terms of how they fit into the health care practice and it is important to them to maintain a professional standing.

Senator Heider asked how licensing will be implemented. **Ms. Budge** responded that they have consulted with the Bureau of Occupational Licensing to ensure the legislation is implemented correctly. She noted the last sections of the bill reflect that implementation will be delayed. The board will be set up and the rulemaking process will begin July 1, 2012; other sections go into place the following year; and the grandfathering process allows for 18 months to two years before they are in place.

Senator Heider asked about the possibility of therapists having to pay multiple fees - one for State licensure and another for local dues or business fees required to conduct business in their community. **Ms. Budge** advised the legislation is intended to help provide uniformity, minimizing the statewide confusion that currently exists. They are not seeking to override business license fees; they are seeking to keep cities from having to deal with the technical implementation of required massage therapist training. In cities such as Boise, a business license could still be required; the provisions in the bill relate to licensure of massage therapists at the State level only.

Senator Schmidt asked if the requirements for massage therapy schools are similar to those for licensure of massage therapists in **S 1295**. **Ms. Budge** replied, it would be accurate to say that in 27 of the states regulating the massage therapy profession at the state level, 500 hours is the minimum requirement. Although some schools may require more than that, it is the most common standard for minimum entry.

Senator Smyser asked how enforcement would be treated if someone made a complaint. **Ms. Budge** responded that the section of the bill regarding enforcement is consistent with licensing in other areas.

Vice Chairman Broadsword commented that after the Committee's previous experiences with licensure, she has some grave concerns about certification or licensure; however, after reading the legislation and seeing the sideboards that have been added and research that has been done, she feels more comfortable with **S 1295**.

MOTION:

Vice Chairman Broadsword moved, seconded by **Senator Schmidt**, that **S 1295** be sent to the floor with a do pass recommendation.

Senator Darrington commented that the bill seems to be boilerplate language, consistent with licensure acts the Committee has approved. He commended those who set the timeline for implementation of the bill. He anticipates it will take up to two years from this legislative session for rules review due to the time-consuming process of developing the rules and implementation of the act. He agreed with **Vice Chairman Broadsword** that there is great hesitation on the part of the Committee with regard to the unintended and unforeseen consequences of licensing.

Senator Vick stated he shares some of the same concerns already expressed, especially regarding the probable increase of costs. He believes that this will lead to more groups who feel they need licensure to legitimize their profession. For these reasons, he stated he will be voting against the bill.

VOTE:

Chairman Lodge asked for a vote on the motion to send **S 1295** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Hammond** will be the floor sponsor.

S 1326

Relating to Vocational Rehabilitation. **Vice Chairman Broadsword** introduced **S 1326**, stating the bill is designed to phase out the State's End Stage Renal Disease (ESRD) program by June 30, 2013. The laws in place require the Division of Vocational Rehabilitation (Division) to provide financial assistance to individuals diagnosed with ESRD who are unable to pay for the cost of services. These laws were passed in 1970 when other types of financial assistance were not available to individuals with ESRD. However, a recent study by the legislative Office of Performance Evaluation (OPE), which was provided to the Committee at the print hearing for this legislation, found that Medicare, Medicaid, and private insurance provide for some or all of the costs associated with ESRD, making the original legislative intent of these laws no longer relevant.

Vice Chairman Broadsword stated that Medicare and Medicaid now cover dialysis, transplants, and related treatment costs. The OPE report provided a number of other programs and options available to those who suffer from ESRD.

Senator Nuxoll asked if there is a difference between what Medicare and Medicaid are doing versus what the Idaho program is doing to help those with ESRD. **Vice Chairman Broadsword** stated the Idaho program primarily pays for medications, transportation, and insurance premiums not covered by Medicare or Medicaid; it no longer pays for dialysis or transplants.

Senator Smyser asked what the average cost is for a person dealing with ESRD. **Vice Chairman Broadsword** deferred to **Don Alveshire**, Director, Idaho Division of Vocational Rehabilitation (Division), who stated that he believes the cost is between \$3,000 and \$4,000 per year; much of that cost is for transportation and prescriptions. Sometimes patients do have some coverage under Medicaid and Medicare; however, the Division is helping with the prescription co-pays.

Senator Schmidt commented, after reviewing the OPE Report, there appears to be difficulties in providing oversight for this program. He asked if transportation costs, which appear to be the largest part of the costs, are covered for people who are enrolled in Medicaid. **Mr. Alveshire** responded that it is his understanding that full transportation costs are not covered and that the 20 percent prescription copay is covered in full. With regard to oversight, he stated it is difficult for staff who are working toward employment-related issues, to adjust and cover these cases. They often do not have access to necessary information in a timely manner and the limited staff assigned to this project will spend only 4-5 hours per week on it. He stated efforts have been concentrated on coordinating benefits with Medicaid and Medicare.

Senator Smyser asked if the Department of Health and Welfare was given oversight of this program, would they be able to better coordinate benefits with Medicaid, track that situation and Medicaid be able to pick that up. **Mr. Alveshire** responded that it would be a lot easier for them to verify coverages.

Senator Heider asked to be recused from voting on this bill due to kidney health issues in his family.

TESTIMONY:

John Carter, representing Dialysis Patient Citizens (DPC), and a dialysis patient himself, spoke **in opposition** to **S 1326**. **Mr. Carter** stated he has been on dialysis treatment for six years and, in fact, had just come from treatment. He stated he works actively in his dialysis center in educating fellow patients, and advocating at the state and federal level. He requested, that the Committee consider not ending the ESRD program, but improve the program so that essential services remain in place for those Idahoans who need them most.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

Chairman Lodge asked if Mr. Carter receives Medicare only, and if he is employed. **Mr. Carter** replied that he does receive Medicare, but not Medicaid. He stated he is not employed at present; he needs dialysis three times per week for a total of approximately 18 hours per week.

Senator Schmidt asked if he had other insurance coverage besides Medicare. **Mr. Carter** responded he does not have insurance other than Medicare. He is working on becoming transplant eligible so is looking at purchasing a COBRA plan which is very costly. **Senator Schmidt** asked if he was familiar with the pre-existing condition insurance plan proposed under the federal Patient Affordable Care Act. **Mr. Carter** replied although he works with his social worker a lot, he was not aware of the federal act.

Senator Nuxoll asked what patients would specifically be without treatment, transportation, prescriptions, etc. **Mr. Carter** responded that the program covers the co-pay costs for prescriptions and transportation to and from treatment on a weekly basis. If a patient could not get transportation, they would potentially be without treatment.

Chairman Lodge asked if he is able to drive and, if so, could he drive himself to treatments. **Mr. Carter** responded he can drive and does.

TESTIMONY: **Lydia Weaver**, John Carter's mother, spoke **in opposition** to **S 1326**. She stated that if we can, through taxes, provide first-rate medical care for prisoners in institutions, we should be able to assist law abiding people with ESRD who fall through the Medicare and Medicaid cracks.

TESTIMONY: **Amy Freeman**, LMSW, Davita Dialysis Center, spoke **in opposition** to **S 1326**. She clarified that patients who are receiving assistance in the ESRD program are not the patients who have full Medicaid which provides coverage for transportation and assistance for medications. Those people being helped are in Medicare only. **Ms. Freeman** continued that one of the first things they do is to help the patient obtain insurance coverage, whether it be through Medicare or both Medicare and Medicaid. If they are not certain of eligibility for Medicaid, they refer the patient to Medicaid directly. She advised that ESRD is chronic. Those who suffer from this disease either remain on dialysis until they can receive a transplant or they die, and very few of them receive a transplant. The assistance the ESRD program provides is invaluable, helping to ensure care in a more cost effective setting.

Senator Smyser asked if Ms. Freeman's references to the costs for medication were regarding the co-pay portion of the costs or the medications costs in general.

Ms. Freeman responded when patients have Medicare A and B, and D for the prescription costs, there is still a co-pay requirement. Because the medications are costly, they meet "the donut hole" where they must pay out of pocket about \$2,000 before receiving Medicare Part D again. The ESRD program pays only for medications related to the cause of their kidney failure or dialysis.

Senator Nuxoll asked if travel within cities is much of a problem and if the program is set up mainly for rural areas. **Ms. Freeman** stated there is a great resource in Boise through Access transportation which is only \$2.00 each way. Outside of Boise city, and in other areas, there is no such program. Patients in rural areas typically do not use a transportation company due to the expense; they either drive themselves or have a family member drive them, so they mainly need help with the cost of gas. **Senator Nuxoll** asked if there is any possibility for help through Medicare or Medicaid. **Ms. Freeman** stated if the individual has income over the limitation for Medicaid, they receive no assistance from Medicaid.

Senator Heider asked who wants this program to go away. **Ms. Freeman** replied it is her understanding that Division of Vocational Rehabilitation does.

Senator Schmidt asked if **Ms. Freeman**, as a social worker, is aware of the pre-existing condition federal pool insurance. **Ms. Freeman** responded that she is not but would appreciate receiving information about that; however, most insurances do not cover transportation costs - the only transportation coverage available is through Medicaid. **Senator Schmidt** asked if she was aware of the projected change in eligibility for Medicaid. **Ms. Freeman** replied that she is not aware of projected changes but would like to know about those changes.

Senator Schmidt stated he has treated patients in rural areas and, depending upon their proximity to a dialysis center, there is often a choice between hemodialysis and peritoneal dialysis, which can be used at home. He asked if **Ms. Freeman** has seen patients in rural areas making use of peritoneal dialysis and would she say there is a preponderance of peritoneal dialysis vs hemodialysis. **Ms. Freeman** responded for those people in rural areas, they do recommend the use of peritoneal dialysis. She added that not everyone is capable of doing so as it involves inserting a catheter into the abdomen; any type of surgery that impacts the peritoneum would prohibit a patient from being eligible for peritoneal dialysis.

Hannah Crumrine, Office of Performance Evaluations (OPE), stated OPE did not necessarily recommend that the ESRD program be terminated. They identified three options for the legislature to consider; however, the Governor's Office is in support of terminating the program and set the effective date of June 30, 2013.

Vice Chairman Broadsword advised there are currently 98 participants in the ESRD program with 30 on a waiting list. Ninety percent (90%) of current participants are not Medicaid eligible. There is no means test for anyone to be on the program at this time. Other programs are available to provide some help to those suffering from ESRD. She further stated that the state does not provide financial assistance for any other single disease, bringing into question the fairness of the current ESRD program. **Vice Chairman Broadsword** advised she proposed this legislation because of the OPE report and at the Governor's recommendation that the program be phased out. She requested the Committee send **S 1326** to the floor with a do pass recommendation.

MOTION:

Senator Vick moved, seconded by **Senator Nuxoll**, that **S 1326** be sent to the floor with a do pass recommendation.

Vice Chairman Broadsword expressed her concern for those currently receiving benefits from the ESRD program, but believes it is a matter of fairness to all Idaho citizens that we spend tax dollars fairly, among all people who suffer from diseases and not just one disease or another.

Senator Schmidt commented he will be voting in favor of **S 1326**. In the text of the bill it appears that assistance that is currently being provided will be encouraged in the phaseout program so that people will not be simply cut off. He stated it appears that this, unfortunately, has been an ineffective support program; we need to provide better support, we can, and he believes we shall. **Senator Schmidt** referred to the changing landscape of health care and stated, in his opinion, most of the people who are currently eligible for these benefits will be eligible for Medicaid support.

VOTE:

The motion carried by **voice vote**. **Vice Chairman Broadsword** will sponsor **S1326** on the floor.

Chairman Lodge adjourned the meeting at 5:00 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

Diana Page
Assistant Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Tuesday, February 28, 2012

SUBJECT	DESCRIPTION	PRESENTER
S 1293	Relating to Federal Food Stamps - To Revise the Felony threshold for Trafficking Food Stamps	Steve Bellomy
PRESENTATION	Behavioral Health Transformation	Ross D. Edmunds

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge	Sen Vick
Vice Chairman Broadsword	Sen Nuxoll
Sen Darrington	Sen Bock
Sen Smyser	Sen Schmidt
Sen Heider	

COMMITTEE SECRETARY

Lois Bencken
Room: WW48
Phone: (208) 332-1319
email: lbencken@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, February 28, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

ABSENT/ EXCUSED: Chairman Lodge

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Vice Chairman Broadsword** called the meeting to order at 3:05 p.m. She indicated that **Chairman Lodge** was presenting a bill in another Committee.

S 1293 Relating to Federal Food Stamps. Steve Bellomy, Bureau Chief of Audits and Investigations, Department of Health and Welfare (Department), advised that the Bureau conducts all investigations on suspected public assistance waste, fraud, and abuse for all programs managed by the Department, which includes the Food Stamp program. He introduced his colleagues, **Dave Taylor**, Deputy Director of Support Services, **Rosie Andueza**, Food Stamp Program Manager for the Department and **Ben Johnson**, Investigation Supervisor for the unit that investigates food stamp fraud.

Mr. Bellomy indicated this legislation reduces the felony threshold for food stamp trafficking from \$150 to \$100. He defined food stamp trafficking as the illegal buying, selling, giving away, disposing, or exchanging of the Food Stamp Benefit. He said with this bill, food stamp trafficking for less than \$100 would be a misdemeanor and a felony if \$100 or greater. This change was recommended to align with federal law and improve the ability to identify, investigate, and prosecute those who participate in the trafficking of food stamps for profit and gain.

Mr. Bellomy said food stamp trafficking usually includes two cooperating parties: a client who has a food stamp benefit card, and a retailer who is willing to split cash for those benefits. He explained trafficking can also occur between two individuals and not a retailer. For example, food stamp benefits can sometimes be exchanged for drugs, weapons, or bartered with other non-authorized individuals who turn around and use the benefits. He stated it is hoped this bill will pave the way for state and federal investigators to collaborate on some of the suspected cases known to exist today.

Mr. Bellomy commended **Chairman Lodge** for suggesting changes in the law that, in his opinion, will strengthen this statute. He said stated food stamps are also known as the Supplemental Nutrition Assistance Program (SNAP), and this designation has been added to the bill. The bill further prohibits anyone from purchasing food with SNAP benefits and then turning around and bartering, selling, or giving away the food. This change will provide more consistency with the federal rules.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Senator Nuxoll asked why changing the amount from \$150 to \$100 would do any good. **Mr. Bellomy** indicated this will align with federal rules and allow state and federal resources to collaborate on investigations.

Vice Chairman Broadsword asked if this was only designed to find the retailers who are violating this statute or would it be against those people who were actually trafficking. **Mr. Bellomy** said this would affect the client as well, so if the client trafficked more than \$100, they would fall under the same provision.

Senator Smyser asked if the retailer was required to train employees regarding food stamp fraud. **Mr. Bellomy** deferred the question to **Ms. Andueza** who said they did provide training for the retailers, but beyond that they do not monitor them.

Senator Vick said he planned on supporting the bill. He said he understood why they were doing this due to trafficking, but he thought the threshold was very low for a felony. **Mr. Bellomy** indicated there was not a standard amount for the threshold among other states, and he is excited about the opportunity for assistance from the federal government.

MOTION: **Senator Smyser** moved, **seconded** by **Senator Heider**, that the Committee send **S 1293** to the floor with a do pass recommendation.

Senator Bock said he agreed with **Senator Vick** and said we need to prevent fraud in this area but he thought both the federal and state thresholds needed to be revisited. **Senator Heider** said he realized the threshold was low, but if we were looking for people who abuse this habitually those individuals would be caught, regardless of whether it was a high amount or a low amount.

VOTE: The motion carried by **voice vote**.

A discussion ensued between **Vice Chairman Broadsword** and **Mr. Bellomy** regarding identifying overpayments of Medicaid program benefits. **Mr. Bellomy** said the overpayments were very difficult and slow to collect. He said the federal government gives them a 25-35% incentive when they do collect the overpayments.

PRESENTATION: Behavioral Health Transformation. **Ross Edmunds**, Administrator, Behavioral Health Division, Department of Health & Welfare (Department) provided the Committee with an overview of the organizational structure of the Behavioral Health Division. He talked about the history of the efforts to transform Idaho's behavioral health system and noted that the Behavioral Health Interagency Cooperative was formed in 2011. He indicated that budget cuts have been a challenge, but they are focused on key targets and have identified the following five primary priority areas: 1) to take care of those that are in immediate crisis and what he referred to as psychiatric emergencies; 2) deals with those individuals that are committed to the state. He stated there are different laws that allow judges to commit an individual either through a criminal process, for competency restoration, or through a civil process; 3) court ordered participants; 4), mental health support and; 5) to share with those individuals what services are available to them through other programs, thereby making Behavioral Health services available to those individuals who do not have any other access to benefits.

Mr. Edmunds indicated the hallmarks of a transformed Behavioral Health system include: local input/local influence; integrated treatment; clearly defined roles and responsibilities; eliminating gaps in services; maximum efficiency with maximum effectiveness; and consumer driven/recovery oriented.

Mr. Edmunds explained the three waves of transformation, including: 1) Medicaid's implementation of managed care; 2) The potential expansion of Medicaid with the Affordable Care Act, which expands to include all adults who are at 133 percent of the federal poverty level or less. Nearly all individuals served through his division, fall in this category; and 3) Idaho's plan for transformation - what we can do to influence these three ways of transformation that will occur over the next several years.

Mr. Edmunds provided the Committee with a copy of the Idaho Behavioral Health System of Care Pyramid (see Attachment # 2). He explained this chart has three parts. The first is the State Behavioral Health Authority, which is the safety net. The second is the Medicaid/Private Behavioral Health Treatment Services, where the majority of clinical health treatment services occur. The third part is the Regional Behavioral Health Community Development Boards, the foundation. He indicated there needs to be community consultation and education including anti-stigma and community inclusion; housing to promote and sustain independent living in communities; employment to promote and sustain independence in communities; prevention with evidence-based activities to prevent the burden of behavioral health disorders; services to support recovery and resiliency; and transportation with the development of sustainable and reliable transportation options.

Mr. Edmunds stated it is important that standards are established statewide so that if someone goes to a psychiatrist in Salmon, Idaho or Boise or anywhere else in the state, there would be the same foundation for those treatments. Housing and transportation should be the same from area-to-area, but right now it is not the same. He indicated there is a concern by some individuals to not move too quickly on making changes, and agreed they would probably be best served by not making any changes until next year. However, information needs to get out to the community to help them understand fully what they are trying to do.

Supporting documents related to this presentation have been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

In response to questions of the Committee, **Mr. Edmunds** said, when it comes to more supportive services like housing and employment, they were really trying to make those decisions on a local level. The state pays some security deposits and first month's rent and that is dictated by the federal fund source. It is their hope that the local group will maximize the money. He said that when it came to treatment, they were not really looking at allowing local entities to control what standards would be for treatment. He indicated under prevention, he is including preventing someone from having to be hospitalized because they can't get community treatment that meets their needs. Prevention can be parenting courses that help provide a foundation for children. He stated he is looking at what kind of education can we provide in the community that will reduce the stigma associated with mental illness, which will allow someone to come forward and access treatment.

Senator Darrington said he was pretty sure this is not a model that applied to the children's mental health program, especially since the Idaho Council on Children's Mental Health (ICCMH) was folded into the Mental Health Planning Council. **Mr. Edmunds** indicated the regional councils that were created within ICCMH became subcommittees of the current Regional Mental Health Planning Council. They are trying to achieve giving a portion of responsibility to the local groups. **Senator Darrington** said this model accomplished the same or more than the ICCMH model according to the 50 objectives that were pursued. **Mr. Edmunds** replied that the ICCMH recommendations were outdated and old, and that systems have evolved both in Idaho and across the country. He indicated they are trying to bring standardization and he feels the climate is ready and there is energy on the local level.

Vice Chairman Broadsword asked what the goal was and the status of the RFP for mental health managed care. **Mr. Edmunds** replied the RFP is being constructed now and the intention is that it will be a single contract and the goal for release is sometime during the second quarter of this calendar year. He said the contract would be in place hopefully by late summer, it is a challenge but they are progressing.

Senator Smyser said she appreciated how compassionate **Mr. Edmunds** was about this project and thanked him for his time.

ADJOURNMENT: Vice Chairman Broadsword adjourned the meeting at 4:02 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, March 01, 2012

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of the Minutes of the January 25, 2012 Meeting	Senators Nuxoll and Bock
Minutes Approval	Approval of the Minutes of the February 7, 2012 Meeting	Senators Heider and Schmidt
H 442	Relating to Nursing Home Administrators-in-Training	Robert Van de Merwe
H 441	Relating to Health Care for Indigent Persons	Tony Poinelli
H 500	Relating to the Occupational Therapy Practice Act	Roger Hales
H 501	Relating to Counselors and Therapists	Roger Hales

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge	Sen Vick
Vice Chairman Broadsword	Sen Nuxoll
Sen Darrington	Sen Bock
Sen Smyser	Sen Schmidt
Sen Heider	

COMMITTEE SECRETARY

Lois Bencken
Room: WW48
Phone: (208) 332-1319
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, March 01, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:05 p.m. and welcomed those in attendance.

MINUTES APPROVAL **Senator Nuxoll** moved, seconded by **Senator Bock**, to approve the minutes of January 25, 2012. The motion carried by **voice vote**.

MINUTES APPROVAL **Senator Heider** moved, seconded by **Senator Schmidt**, to approve the minutes of February 7, 2012. The motion carried by **voice vote**.

H 442 **Relating to Nursing Home Administrators-in-Training. Robert Van de Merwe**, Executive Director, Idaho Health Care Association, explained that in order to complete degrees such as Hospital Administration, an internship is required, and that a post degree full time one year internship is also required to become a licensed administrator of a skilled nursing facility or nursing home. This legislation would allow the use of the internship required to complete a degree to also meet the requirement for the post degree internship, eliminating the need for an individual to complete two internships. **Mr. Van de Merwe** advised that the Board of Occupational Licenses is in favor of this legislation.

MOTION: **Senator Heider** moved, seconded by **Senator Schmidt**, that the Committee send **H 442** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Heider** will sponsor **H 442** on the floor.

H 441 **Relating to Health Care for Indigent Persons. Tony Poinelli**, Idaho Association of Counties, explained that this legislation clarifies the requirements for counties and the Catastrophic Health Care Cost Board (CAT) to enable them to pay for authorized expenditures for alternative programs that would help control health care costs of indigent individuals. He stated the language is broad as it was felt that it did not make sense to tie it to a particular program. An example of an alternative program would be COBRA. If an individual is unemployed and still eligible for COBRA, the county could assist the individual in paying the premium. A Pre-existing Condition Insurance Plan (PCIP) would be another example of an alternative program to which individuals could be directed with the assistance of CAT. These alternatives would still require meeting indigency eligibility, but would additionally allow for primary and preventative care to help manage and control costs.

Mr. Poinelli advised that consultation with the Attorney General's office showed that the law clearly states that the CAT fund is for medical treatment alone; however, *Idaho Code*, Section 57-813, allows the CAT Board to pay for premiums. **Mr. Poinelli** provided the Committee with an analysis of potential savings by using these alternative programs (see Attachment #1).

Senator Darrington asked if the language stating the Board "has the right to," allows the counties enough discretion to pick and choose which cases they will assist with insurance coverage in the event an indigent decided to demand something be covered. **Mr. Poinelli** indicated that if a person is deemed indigent, the county will be responsible regardless; but if the county can assist in paying part of an insurance premium, the individual and the county benefits.

Vice Chairman Broadsword asked if the county agrees to pay for insurance premiums for a certain period of time. **Mr. Poinelli** stated that the CAT Board requires a medical review, and may agree for a certain period of time, it does not require ongoing payment.

MOTION:

Vice Chairman Broadsword moved, seconded by **Senator Nuxoll**, that the Committee send **H 441** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Vice Chairman Broadsword** will sponsor **H 441** on the floor.

H 500

Relating to Occupational Therapy Practice Act. **Roger Hales**, Attorney, on behalf of the Board of Occupational Therapy (Board), stated that the purpose of this legislation is to eliminate ambiguity in the law relating to continuing education. Current law implies that only those continuing education courses recommended by the private state association may be approved by the Board and any continuing education courses sponsored by the state association are automatically approved by the Board. The ambiguity is whether or not the Board can approve courses other than those recommended by the state association. This legislation clarifies that other continuing education courses may be approved by the Board.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

Vice Chairman Broadsword asked how the state association feels about being removed from this portion of the law. **Mr. Hales** indicated the state association is aware of the Board's decision to pursue this legislation and did not oppose it in the House. He added that any continuing education courses conducted or sponsored by the state association were automatically approved, this simply allows other programs to be approved as well. **Vice Chairman Broadsword** followed up by asking if the automatic approval would be inserted in rules. **Mr. Hales** indicated it is in rules at this time.

MOTION:

Senator Schmidt moved, seconded by **Senator Heider**, that the Committee send **H 500** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Chairman Lodge** will sponsor **H 500** on the floor.

H 501

Relating to Counselors and Therapists. **Mr. Hales**, on behalf of Idaho Board of Professional Counselors and Marriage and Family Therapists (Board), introduced **Dorothy Spenner**, a member of the Board and a Licensed Clinical Professional Counselor and Marriage and Family Therapist, who is in attendance to answer technical questions. The purpose behind this legislation is to clarify and clean up the statute after numerous amendments over the last 12 years to add additional license categories. **Mr. Hales** reviewed each substantive change and noted that both Counselor and Marriage and Family Therapists Associations fully support this bill.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

Senator Smyser asked about the section regarding licensees from other states during a disaster, and how that came about. **Mr. Hales** stated that natural disasters like Hurricane Katrina have brought this about, and that many medical related boards, have disaster scenarios.

Senator Darrington asked what happened to the category of pastoral counselors. **Mr. Hales** indicated there was only one licensed pastoral counselor over several years and that license was eliminated.

Senator Heider asked how a couple would go about finding the right counselor for their situation. **Mr. Hales** deferred to **Ms. Spenner**, who indicated that couples counseling is considered an area of expertise, and that a Licensed Professional Counselor could offer couples and family therapy. She noted that insurance companies often keep records of a counselor's area of expertise, and recommend couples. They also depend on professionals to emphasize an area of expertise and stay within that practice. **Senator Heider** further asked how someone would come into contact with a therapist. **Ms. Spenner** indicated there are often word of mouth referrals, much like other medical practices.

MOTION: **Senator Smyser** moved, seconded by **Senator Heider**, that the Committee send **H 501** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Smyser** will sponsor **H 501** on the floor.

ADJOURNMENT: There being no further business to come before the Committee, **Chairman Lodge** adjourned the meeting at 3:40 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

Erin Bennett
Assistant Secretary

AMENDED #1 AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, March 07, 2012

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL	Approval of the Minutes of the January 26, 2012 Meeting	Senators Vick and Schmidt
MINUTES APPROVAL	Approval of the Minutes of the January 30, 2012 Meeting	Senators Smyser and Bock
MINUTES APPROVAL	Approval of the Minutes of the February 8, 2012 Meeting	Senators Vick and Schmidt
UNANIMOUS DECISION REQUEST	RS 21494 - SCR Encouraging Department of Health & Welfare to Schedule Town Hall Meetings to Gather Feedback on Recruiting and Retaining Volunteer EMS Personnel.	Chairman Lodge
<u>H 541</u>	Relating to Health Care Organizations - To Prohibit Economic Credentialing of Medical Staff Membership in Health Care Organizations	Ken McClure
<u>H 522aa</u>	Relating to Public Assistance Benefit Cards - To Provide for Prohibited Uses of Public Assistance Benefit Cards by Recipients	Representative Christy Perry, District 13

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge	Sen Vick
Vice Chairman Broadsword	Sen Nuxoll
Sen Darrington	Sen Bock
Sen Smyser	Sen Schmidt
Sen Heider	

COMMITTEE SECRETARY

Lois Bencken
Room: WW48
Phone: (208) 332-1319
email: lbencken@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, March 07, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:20 p.m., welcoming guests and noting the late start was due to the Judiciary and Rules Committee meeting running long.

MINUTES APPROVAL **Senator Vick** moved, seconded by **Senator Schmidt**, that the minutes of the January 26, 2012, meeting be approved. The motion carried by **voice vote**.

MINUTES APPROVAL **Senator Smyser** moved, seconded by **Senator Bock**, that the minutes of the January 30, 2012, meeting be approved. The motion carried by **voice vote**.

MINUTES APPROVAL **Senator Schmidt** moved, seconded by **Senator Vick**, that the minutes of the February 8, 2012, meeting be approved. The motion carried by **voice vote**.

UNANIMOUS DECISION REQUEST **RS 21494 - SCR Encouraging Department of Health & Welfare to Schedule Town Hall Meetings to Gather Feedback on Recruiting and Retaining Volunteer EMS Personnel.** **Chairman Lodge** indicated difficulty has been experienced in retaining EMS personnel in rural areas, and this resolution states Wayne Denny with the Department of Health and Welfare will be scheduling town hall meetings throughout rural Idaho to discuss the recruitment and retention of volunteer EMS personnel. **Chairman Lodge** noted that **Senator Nuxoll**, **Representative Roberts** and **Representative Shepherd** have also been involved in bringing forth this issue.

Vice Chairman Broadsword asked for unanimous consent to send **RS 21494** to the State Affairs Committee for printing, seconded by **Senator Nuxoll**. There was no objection.

H 541 **Relating to Health Care Organizations.** **Ken McClure**, Idaho Medical Association, explained this legislation is an effort to deal with economic credentialing. It clarifies that hospitals can establish their own criteria for medical staff membership but cannot deny medical staff membership to someone merely because that doctor also practices elsewhere, has an ownership interest in another facility such as an ambulatory surgical center or specialty hospital, or because that doctor is a competitor of other doctors on the hospital medical staff. **Mr. McClure** indicated this legislation had been discussed with all concerned parties and they were unaware of any opposition.

Senator Vick asked about lines 13-15 which concerns rules, regulations, standards and qualifications for medical staff, and asked if those are available for those trying to get credentialed. **Mr. McClure** indicated those standards are published in hospital bylaws and accessible to those applying for credentialing.

Senator Darrington asked if this problem and solution was reminiscent of an issue with podiatrists and surgeons privileges that occurred in previous session. **Mr. McClure** indicated that, yes, it is a similar issue.

Senator Heider stated the issue in his area seemed to be the doctors not being given privileges by hospitals, and asked if this legislation resolves that issue.

Mr. McClure stated that he could not address specifics of the question, but that changes are coming rapidly, creating a number of anxieties with hospitals and physicians. There is also concern about limitation of practices based on things like economics rather than quality of care. This legislation simply prevents hospitals from denying privileges for the specific reasons outlined. **Senator Heider** stated this is a step in the right direction, and thanked **Mr. McClure** for his efforts.

TESTIMONY: **Toni Lawson**, Idaho Hospital Association, stated the association is **not opposed** to the legislation, and thanked the Idaho Medical Association for working with the Idaho Hospital Association to include language they had requested.

TESTIMONY: **Jeff Cilek**, St. Luke's Health Systems, indicated their **support** of the legislation.

TESTIMONY: **Larry Benton**, Benton Ellis and Associates, representing Specialty Hospitals, spoke **in support** of **H 541** stating this would be a patient access improvement and thanked those who worked on the legislation.

Senator Vick indicated it was frustrating that the Senate has to get involved in how hospitals do their hiring, and indicated his full support of the bill.

MOTION: **Senator Smyser** moved, seconded by **Senator Bock**, that the Committee send **H 541** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Smyser** will sponsor the bill on the floor.

H 522,aa **Relating to Public Assistance Benefit Cards.** **Representative Perry** advised that currently a large number of Idahoans receive monetary benefits from the Temporary Assistance for Needy Families (TANF) program. The money is issued as a monthly cash allowance and is generally distributed via public assistance benefit (EBT) cards. She stated that **H 522,aa**, puts restrictions on use of EBT cards, or the cash obtained with EBT cards, from being expended for inappropriate purchases or venues. **Representative Perry** reviewed the legislation, indicating that currently there are no restrictions as to how these funds can be used. She then pointed out the notification process and consequences of violation. This legislation is similar to federal legislation that has recently been passed regarding funds for these programs.

Vice Chairman Broadword asked for an explanation of the amendment.

Representative Perry explained that the Retailers Association had a problem with special distributorships, also called contract stores, for which this did not make an exemption. These stores may carry other items beyond liquor, and it is not yet possible to determine goods being bought to exempt just liquor. The federal legislation gives a specific definition of liquor store, and the amendment puts this in line with federal regulations. **Senator Broadword** continued by asking about Section 1, Line 18, which refers to cash from TANF benefits and how that would be regulated. **Representative Perry** stated that if cash is obtained using the benefit card at a prohibited place of business, it can be tracked; however, if cash is obtained at a permissible business it would not be possible to track it.

Senator Bock asked if cash was ever distributed directly from the agency to participants in the program. **Representative Perry** indicated most of the time money is distributed via the EBT card, or it can be directly deposited into an individual's checking account, but it is not distributed as cash. **Senator Bock** asked why they include cash in the legislation. **Representative Perry** indicated it is because cash can be withdrawn using the EBT card.

Senator Darrington asked about enforcement, if there were criminal sanctions involved, and if the Department had authority to write a rule to determine how far sanctions would extend. **Representative Perry** indicated violations were considered a misdemeanor. She deferred the remainder of the question to **Russ Barron**, Administrator, Division of Welfare, Department of Health and Welfare (Department). **Mr. Barron** indicated if the Department found an intentional program violation, it could result in legal proceedings and forfeiture of all cash public assistance. He also noted the TANF program benefits extend only for two years.

Senator Smyser asked how many cases in the last year have been dealt with regarding abuses. **Mr. Barron** indicated he does not have specific numbers, but the Department is aware that violations are occurring. **Senator Smyser** asked if the Department would conduct an investigation and then turn it over for prosecution. **Mr. Barron** stated that was the case.

Vice Chairman Broadsword asked if the EBT card was different from the TANF card, or if they were the same, just loaded with different monies. **Mr. Barron** stated they were the same, and could also be loaded with food stamp dollars. **Vice Chairman Broadsword** asked how the Department would be able to tell the difference between the benefits if they are all on the same card. **Mr. Barron** stated the systems are able to distinguish the difference and whether the purchase is allowed. **Senator Broadsword** asked how this legislation would interact with the legislation previously passed which stated the threshold for felony fraud is \$100. **Mr. Barron** indicated the previous legislation was for food stamps, not TANF funds. **Vice Chairman Broadsword** also asked about processing fees on the card, and if that was drawn from the benefits. **Mr. Barron** indicated it is. **Arie Garcia**, EBT Manager for the Department added that the fee is charged by the ATM owner; the client can also go to a point of sell machine to obtain cash without a charge.

Senator Bock stated he has a major problem with the bill and that certain transactions involving the same card and same behaviors can be treated as both a felony and a misdemeanor. **Rosie Anduzia**, TANF Program Manager, stated the felony is related to trafficking of benefits, which makes the offenses different.

Senator Smyser asked about enforcement when money is withdrawn for cash. **Mr. Barron** indicated that in many cases enforcement was not possible, or was very difficult. **Senator Smyser** commented the idea was good, but without the enforcement ability it is difficult to understand how it is beneficial.

Senator Darrington asked if the fraud investigators working on Medicare fraud would be the same individuals investigating this type of fraud. **Mr. Barron** indicated they would not, there are individuals who handle welfare fraud. **Senator Darrington** stated that fraud investigation seems to have dwindled, that people want fraud investigated, and he would like to enforce this. **Mr. Barron** indicated there are cash withdrawals they cannot track, but they are beginning to control those prohibited transactions that can be tracked.

Vice Chairman Broadsword stated she shares **Senator Bock's** concern regarding conflict with the previously passed legislation. She suggested getting a legal opinion on the issue. **Senator Bock** commented that consistency in the legislation would be what should be looked at, and taking out the word cash would be necessary because fraud in that case would be impossible to prove.

Senator Vick noted that taking the term cash out may send the wrong message as to certain things being legal if they are done with cash, and was not comfortable taking that out. **Senator Bock** stated that cash has a specific meaning in code, and he agrees with **Senator Vick**, but feels the legislation could be better.

Senator Smyser suggested better education for EBT card users so they make appropriate purchases.

Vice Chairman Broadsword asked if an informational letter is included for EBT cardholders when new cards go out. **Mr. Barron** indicated that was the case.

MOTION: **Vice Chairman Broadsword** moved, seconded by **Senator Nuxoll**, that the Committee hold **H 522,aa**, to allow time for the issue to be worked out. The motion carried by **voice vote**.

ADJOURNMENT: **Chairman Lodge** adjourned the meeting at 4:15 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

Erin Bennett
Assistant Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, March 08, 2012

SUBJECT	DESCRIPTION	PRESENTER
H 503	Relating to Prescription Drug Orders - To Establish Provisions Relating to Circumstances Where a Prescriber May Perform Certain Activities for a Patient With Whom the Prescriber Does Not Have a Prescriber-Patient Relationship	Susie Pouliot
H 558	Relating to Residential Care Provisional Permits - To Revise Provisions Relating to Whom a Residential Care Provisional Permit May Be Issued	Kris Ellis Robert Vande Merwe

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge
Vice Chairman Broadsword
Sen Darrington
Sen Smyser
Sen Heider

Sen Vick
Sen Nuxoll
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken
Room: WW48
Phone: (208) 332-1319
email: lbencken@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, March 08, 2012
TIME: 3:00 P.M.
PLACE: Room WW54
MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Vick, Nuxoll, Bock, and Schmidt
ABSENT/ EXCUSED: Senator Heider
NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
CALL TO ORDER: **Chairman Lodge** called the meeting to order at 3:06 p.m.

H 503 **Relating to Prescription Drug Orders.** **Susie Pouliot**, CEO, Idaho Medical Association (IMA) advised this legislation clarifies in law that there are limited and very specific situations where it is appropriate for a health care provider to write a prescription for an individual with whom that provider did not have an established provider-patient relationship. In 2006 the legislature passed a law to combat internet prescribing. Although, that legislation was effective in getting rid of inappropriate internet prescribing, it had unintended consequences. She said this bill was the product of collaboration between the IMA and the Boards of Medicine, Nursing and Pharmacy, as well as the Department of Health and Welfare and the Public Health Department.

Ms. Pouliot stated **H 503** lists seven specific situations where a physician or another prescriber can write a prescription for a patient with whom they do not have a physician/patient relationship: 1) writing initial admission orders for a newly hospitalized patient; 2) writing a prescription for a patient of another prescriber for whom the prescriber is taking call; 3) writing a prescription for a patient examined by a physician assistant, advanced practice registered nurse or other licensed practitioner with whom the prescriber has a supervisory or collaborative relationship; 4) writing a prescription for medication on a short-term basis for a new patient prior to the patient's first appointment; 5) in emergency situations where life or health of the patient is in imminent danger; 6) in emergencies that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control an infectious disease outbreak; and 7) if a prescriber makes a diagnosis of a sexually transmitted disease in a patient, the prescriber may prescribe or dispense antibiotics to the infected patient's named sexual partner or partners for treatment of the sexually transmitted disease as recommended by the most current Centers for Disease Control and Prevention (CDC) guidelines. The specific situations outlined in the legislation follow well-established methods of care in the health care community, as well as best practices established by (CDC) guidelines.

Ms. Pouliot advised that prescribing drugs to individuals without a prescriber/patient relationship and not in accordance with this section, would be considered unprofessional conduct and the prescriber would be subject to discipline according to the provisions of the *Idaho Code* chapter under which the prescriber is licensed, certified or registered. She asked the Committee to support this bill.

Chairman Lodge asked **Ms. Pouliot** if they have had problems. **Ms. Pouliot** responded that these situations are well established practices and physicians suddenly found themselves running afoul of the law when they had been doing this all along. She said they simply want to clarify in statute that these situations are appropriate.

Senator Schmidt indicated he has a concern that something could be missed when we specifically list situations. **Ms. Pouliot** said this is covered in the legislation under the situations listed in (6) and (7) above where they talking about public health threat and infectious disease.

TESTIMONY: **Dieuwke A. Dizney-Spencer**, RN and Bureau Chief, Bureau of Clinical and Preventive Services, spoke **in support** of **H 503**. She talked about her experience at a high school, where she was a public health nurse, when a student came down with meningitis and died. She explained that physicians, nurse practitioners, and physician's assistants were able to provide antibiotics to protect family members and friends from this potentially rapidly spreading disease because they were not required to see everyone in person prior to writing the prescription.

Supporting documents related to this testimony have been archived and are accessible in the office of the Committee Secretary (see Attachment #1).

TESTIMONY: **Hanna Brass** representing Planned Parenthood, testified **in support** of **H 503**. She said an early pregnancy test is a crucial strategy because it eliminates the cost, time and similar barriers to treatment. She urged the Committee to vote yes on **H 503**.

MOTION: **Senator Schmidt** moved, **seconded** by **Senator Nuxoll**, that the Committee send **H 503** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Schmidt** will carry the bill on the floor.

H 558 **Relating to Residential Care Provisional Permits.** **Robert VanderMerwe**, Idaho Health Care Association, advised that a license is required to operate an assisted living facility in Idaho. He indicated that the 2011 Legislature revised licensing requirements to add experience to other requirements for licensure. He indicated that the current law is being interpreted to require the same education and experience requirements for a Provisional Permit as required for a regular license. He advised that this legislation will allow the issuance of a Provisional Permit for a period of 90 days if either the education requirement or the experience requirement is met. He stated that licensed administrators, especially in rural areas, are difficult to find and this will allow a facility to fill vacancies on an emergency basis. Should a facility have an administrator leave, the Department of Health and Welfare requires that an administrator be hired within 30 days. If the facility is unable to find a licensed administrator and there is someone with either the required experience or required education available, the 90 day time frame of the Provisional Permit should allow for the completion of the education or experience requirement.

Senator Bock asked what happened after the expiration of the Provisional Permit? **Mr. VanderMerwe** answered that the Provisional Permit is only good for 90 days. After the 90 days, one has no licensed administrator. In rare cases, he said, in a rural area, for example, the Bureau would allow another 90 days. He said, generally, 90 days should be enough time to find and hire a licensed administrator. He pointed out that the minimum number of experience hours if one had a degree would be 200 hours.

Chairman Lodge asked how many licensed administrators there are in Idaho? **Mr. VanderMerwe** answered there are about 400 facilities and each one has a licensed administrator and there are probably another 200, like himself, who have a license that are not working in a medical building. He guessed there are about 600 total.

TESTIMONY: **Mark Nupil** testified in support of **H 558**. He stated that he owns several assisted living facilities in a rural communities throughout Idaho. He said if the bill does not pass, it would be detrimental to the industry.

Chairman Lodge asked **Mr. Nupil** if he felt he could operate his facilities throughout the state without an administrator and he replied absolutely not. He said the 90 day Provisional Permit would give time to find someone or allow someone on staff to complete education requirements.

MOTION: **Senator Smyser** moved, seconded by **Senator Bock**, to send **H 558** to the floor with a **do pass** recommendation. The motion carried by **voice vote**. **Senator Smyser** will carry the bill on the floor.

ADJOURNMENT: **Chairman Lodge** advised the Committee that the Monday agenda would include the confirmation hearing for the Director of the Department of Environmental Quality and asked that members have their questions ready. The meeting was adjourned at 3:32 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

Linda Kambeitz
Assistant Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Monday, March 12, 2012

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of the Minutes of the February 9, 2012 Meeting	Senators Darrington and Bock
Minutes Approval	Approval of the Minutes of the February 13, 2012 Meeting	Senators Smyser and Bock
GUBERNATORIAL CONFIRMATION HEARING	Curt Fransen of Garden City, Idaho, was appointed Director of the Department of Environmental Quality to serve a term commencing February 24, 2012, and serving at the pleasure of the Governor	Curt Fransen
H 522aa	Relating to Public Assistance Benefit Cards - To Provide for Prohibited Uses of Public Assistance Benefit Cards by Recipients	Representative Christy Perry, District 13

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge
Vice Chairman Broadsword
Sen Darrington
Sen Smyser
Sen Heider

Sen Vick
Sen Nuxoll
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken
Room: WW48
Phone: (208) 332-1319
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, March 12, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Bock, and Schmidt

ABSENT/ EXCUSED: Senator Nuxoll

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:04 p.m.

MINUTES APPROVAL: **Senator Bock** moved, seconded by **Senator Darrington**, that the minutes of February 9, 2012 be approved. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Smyser** moved, seconded by **Senator Bock**, that the minutes of February 13, 2012 be approved. The motion carried by **voice vote**.

GUBERNATORIAL CONFIRMATION HEARING **Curt Fransen**, of Garden City, Idaho, was appointed Director of the Department of Environmental Quality (DEQ) to serve a term commencing February 24, 2012, and serving at the pleasure of the Governor. He provided the Committee with a short biography of his professional and personal life, indicating that he had lived and worked in Idaho for the past 30 years. He worked in the Office of the Attorney General for about 24 years, representing the Division of Health, within the Department of Health and Welfare, where he recalls working on the Clean Indoor Air Act. He also represented the Division of Environmental Quality within the Department of Health and Welfare and was the Chief of the Environmental Quality Section of the Natural Resources Division in the Attorney General's Office. During his tenure with the Attorney General's Office, he also represented other state resource agencies including the Department of Lands, Department of Parks and Recreation, and Department of Fish and Game. He provided further highlights of his career projects, including a number of long-term environmental issues important to Idaho. Since 2007 he has served as Deputy Director for the DEQ and looks forward to the transition as Director if his appointment is confirmed. His priority at DEQ will be to maintain and enhance the progress that DEQ has made under the leadership of **Director Hardesty**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 1).

Senator Darrington commented that he cut his teeth in the Idaho State Legislature on the Hazardous Waste Management Act and was schooled by Ken Brooks, head of DEQ when it was a division under the Department of Health and Welfare. He stated Mr. Brooks perspective was that if the State can position itself into a place to gain primacy in certain areas where primacy is available, such as hazardous waste, that DEQ will be in a better position than the federal government to work with folks on an ongoing basis. He asked if **Director Fransen** agreed with Mr. Brooks' perspective on primacy. **Director Fransen** stated that he agrees with that statement and added that primacy is the opportunity for the State to run federal programs in lieu of the federal government offering some definite advantages to the state, to our environment, and our regulation entities. We are simply closer to the ground here than people in Seattle or Washington, D.C. If we can integrate permitting

programs and primacy programs into the ones we have, we will have a broader picture perhaps than people sitting someplace else. He added one caveat, and that is we need to make sure if we are going to take these programs over, that we have the funding, staff, and the will to operate those programs effectively, otherwise the Environmental Protection Agency (EPA) will take over the job. We need to be able to defend our decisions and ourselves from the federal government accordingly.

Senator Vick asked what Mr. Fransen's view is on how primacy will affect what they are trying to accomplish with regard to the Spokane River. **Director Fransen** responded the main issue involved is the pending NPS permits for the wastewater discharges by the cities of Coeur d'Alene, Post Falls, and east Hayden. The difficulty is that the Environmental Protection Agency (EPA) issues those permits and, by law, they have to meet the downstream state standards. The state of Washington has a very low dissolved oxygen (DO) standard so to combat that low D.O. level they are instituting very, very low nutrient requirements for the Idaho dischargers. If the state had NPS primacy, he believes the state would be in a better position to self-interpret those downstream standards and apply those standards to the Idaho NPS permit for those entities and come up with scenarios that would allow the permits to be phased in over time.

Senator Vick asked for Mr. Fransen's perspective on a second major concern in Northern Idaho - Silver Valley and the EPA. **Director Fransen** responded he has personally worked on the Bunker Hill superfund site for approximately 25 years. He stated they are turning a corner from a public health clean up to an environmental clean up with the main issue now being water quality in the south fork of the Coeur d'Alene, and in the gulches and creeks above the south fork of the Coeur d'Alene and down to the river.

Senator Vick asked if mining might become a growing part of the economy again. **Director Fransen** replied that he believes it can, and that there is good evidence of that. He highlighted several areas of mining evaluation and exploration work in various stages of process related to the Hecla Mining Company and the Sunshine Mine.

Senator Schmidt asked **Director Fransen** to expound on his vision for the DEQ in relation to his comments about the process of taking "small incremental steps" in moving forward as Director. He responded that DEQ's overall mission is to protect our environment - water, land, and air. In terms of vision, he stated he believes we need to take control of as much environmental protection programming as possible within the state. **Director Fransen** acknowledged the importance of transparency, and making sure what they are doing through their rules, regulations, programs, and permits is effective in giving us what we want, and is cost effective as well. He stated they need to keep looking across the state where we have significant groundwater and surface water issues. Using common sense, they must continue the process that will provide a good environment for our children and grandchildren.

Vice Chairman Broadsword asked what **Director Fransen's** approach will be if there are contentious issues that have DEQ employees on one side and taxpayers on the other. He advised that legislative intent, as reflected in *Idaho Code*, is that we use the best science and facts available. He believes that means they must, in requiring people to do or not do certain things that result in an expenditure of money, utilize information that is discernible and can be replicated rather than going on emotions, hoax, or hopeful aspirations. In addition, they must apply common sense, and must be confident that what is being required is effective and will achieve the desired results. He also believes they must be transparent and responsive. He recognized the need to work collaboratively and openly with as many people and with as many resources as they can.

Vice Chairman Broadsword commented that strong leadership at DEQ will be required for his employees to understand they cannot run "roughshod" over people, but must demonstrate what the facts are and that those facts are supportable. In regard to some recent newspaper articles, she asked what the DEQ's response would be to the request for expansion of field burning to weekends and holidays.

Director Fransen reviewed the history of the field burning program and stated that since there are only so many good burn days in Idaho, spreading those days out by using weekends will provide the opportunity of trying to find good burn days where the smoke goes straight up. Some of those fields are near schools; since there are restrictions on burning fields that are close to schools, it will be helpful to have the option to burn on weekends when school is not in session.

Vice Chairman Broadsword noted **Director Hardesty** expressed a concern in her JFAC presentation about losing key personnel due to funding/budget issues. She asked **Director Fransen** how he would address that need to do more with less and keep key employees. He expressed he is happy to see that the Legislature may approve a 2 percent increase in salaries and merit increases, which should give their employees the sense that something is changing.

Vice Chairman Broadsword asked how he will communicate and facilitate toward common ground on difficult issues. **Director Fransen** responded that the DEQ needs to be as transparent as they can and identify where there are interests and try to understand what those interests are and reach out to the citizens.

Chairman Lodge thanked the Director for appearing before the Committee and for his thorough answers to the questions from the Committee. She advised that a vote will be taken on his nomination at the next meeting.

H 522AA

Relating to Public Assistance Benefit Cards. Representative Christy Perry, District 13, stated that currently, a large number of Idahoans receive monetary benefits from the Temporary Assistance for Needy Families (TANF) program. The money is issued as a monthly cash allowance and is generally distributed via public assistance benefit (EBT) cards. TANF is designed to be a supplement to low income families for necessary or urgent needs.

Currently, there are no restrictions as to how the EBT cards or cash obtained with EBT cards can be used. **H 522aa** seeks to prohibit the use of public assistance benefit cards or cash obtained with public assistance benefit cards from being expended for inappropriate purchases or venues.

@ 37:32

Representative Perry acknowledged that **Rosie Andueza**, **Orie Garcia**, and **Steve Bellomy**, from the Department of Health and Welfare (Department), were present for assistance with questions about the legislation. She stated she had worked with the Attorney General for the Department and **Senator Bock** to clear up questions the Committee had when this bill was previously presented. The questions related to the phrase "cash obtained with public assistance benefit cards" and why this bill specifies a misdemeanor penalty while previously passed legislation related to EBT cards specifies a felony penalty. She advised that:

- Understanding the Department's limitations, they made every effort to define the term "cash" in the bill on line 18, which states "cash obtained with public assistance benefit cards."
- The felony penalty provided for in S 1293 relates to trafficking and is in line with federal regulations. The misdemeanor penalty provided for in H 522aa relates to money that comes from the TANF block grant and deals with what is needed at the state level. She stated there does not appear to be a conflict between these two provisions.

Senator Bock expressed his appreciation to **Representative Perry** for working with him. He feels the cash reference could be refined; however, he does not want to hold up the bill for something that is probably going to have an insignificant effect.

Senator Smyser commented that she appreciates **Representative Perry's** work on this, but stated that it still appears that we are not going to be able to trace the cash. **Representative Perry** replied that if someone was to withdraw cash at any ATM they would not be able to track that at this point in time. However, if they use the EBT card in a particular casino or prohibited retailer, they will be able to track where the card was used.

MOTION: **Senator Bock** moved, seconded by **Senator Vick**, that **S 522aa** be sent to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Vick** will sponsor the bill on the floor.

ADJOURMENT: **Chairman Lodge** stated there will be no meeting on Tuesday, March 13th, and adjourned the meeting at 3:47 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

Diana Page
Assistant Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Wednesday, March 14, 2012

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of the Minutes of the February 14, 2012 Meeting	Senators Nuxoll and Schmidt
GUBERNATORIAL NOMINATION VOTE	Curt Fransen of Garden City, Idaho, was appointed Director of the Department of Environmental Quality to serve a term commencing February 24, 2012, and serving at the pleasure of the Governor	
H 569	Relating to Uniform Controlled Substances - To revise a Provision Relating to the Description of Controlled Substances	Representative Thomas Loertscher, District 31
H 439aa	Relating to Dispensing of Controlled Substances Prescriptions	Mark Johnston
H 502aa	Relating to Uniformed Controlled Substances - To Revise Provisions Relating to Schedule I, III, IV, and V Controlled Substances	Mark Johnston
H 609	Relating to Public Assistance Law - To Revise Provisions Relating to Dental Services for Certain Medicaid Participants	Representative Janice McGeachin, District 32

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge
Vice Chairman Broadsword
Sen Darrington
Sen Smyser
Sen Heider

Sen Vick
Sen Nuxoll
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken
Room: WW48
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, March 14, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:15 p.m., welcomed those in attendance, and apologized for the late start due to a prior presentation.

MINUTES APPROVAL: **Senator Schmidt** moved, seconded by **Vice Chairman Broadsword**, that the minutes from February 14, 2012 be approved. The motion carried by **voice vote**.

GUBERNATORIAL NOMINATION VOTE: **Curt Fransen** of Garden City, Idaho, was appointed Director of the Department of Environmental Quality to serve a term commencing February 24, 2012, and serving at the pleasure of the Governor. **Senator Bock** moved, **seconded** by **Senator Nuxoll**, to send the gubernatorial appointment of **Curt Fransen** as Director of the Department of Environmental Quality to the floor with the recommendation that it be confirmed by the Senate. The motion carried by **voice vote**. **Senator Bock** will carry the nomination on the floor.

H 569: **Relating to Uniform Controlled Substances. Representative Loertscher, District 31**, was welcomed to the Committee by **Chairman Lodge**. He said this was a very simple piece of legislation to clarify the reporting requirements of the filling of prescriptions by veterinarians. He advised current legislation requires all controlled substances dispensed for humans be filed with the Board of Pharmacy electronically in a format established by the board or by other method as required by board rule. He indicated this change would exempt veterinarians from having to report electronically.

Senators Smyser and Bock expressed appreciation for the changes in this bill.

TESTIMONY: **Dr. Les Stone**, veterinarian from Idaho Falls, representing the Idaho Veterinarian Medical Association said the current rules could be a burden to veterinarians in that they would have to generate useless information for the Prescription Monitoring Program (PMP). He indicated the PMP program was designed for humans and this bill will eliminate the reporting requirement for veterinarians dispensing controlled substances. He stated veterinarians do not dispense quantities that are likely to be abused and the data obtained from veterinarians did not justify the burden placed on small veterinarian practices. **Chairman Lodge** thanked **Dr. Stone** for the work he had done to help resolve this problem. .

TESTIMONY: **Mark Johnston**, Executive Director, Board of Pharmacy (Board), said the Board had not had time to meet; however, he had talked with the Chairman of the Board and there is a feeling the Board would not be opposed to the change.

Vice Chairman Broadsword asked **Mr. Johnston**, how he felt about **Dr. Stone's** assertion that the information gathered from veterinarians is not needed. **Mr. Johnston** advised the Board first considered the veterinarians' requests at a public hearing last October and at that time they did make the determination that they believed it was important for the Board to know what controlled substances were being ordered by veterinarians so they might be able to identify illegal activity. He said they have only had three cases in the past ten years of a patient taking an animal to multiple doctors for medication.

MOTION: **Senator Smyser** made a motion, **seconded** by **Senator Nuxoll**, that the Committee send **H 569** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Smyser** will sponsor **H 569** on the floor.

H 439AA: **Relating to Dispensing of Controlled Substances Prescriptions.** **Mr. Johnston** advised that Board policy requires collection of certain data on controlled substances that are dispensed. He stated the data is available in the Board's Prescription Monitoring Program (PMP). He noted that practitioners licensed in states other than Idaho often provide medical services to Idaho residents, especially in Idaho's neighboring states. This legislation would clarify that the Board is allowed to provide PMP data to licensed practitioners, whether licensed in Idaho or another state. **Mr. Johnston** explained that the Board obtained a Federal grant to create a system that would allow interstate data sharing, thus allowing Idaho pharmacists and practitioners to access other PMP data. A requirement of the grant would be reciprocal access.

Additional changes would allow pharmacists PMP access when providing pharmaceutical care services and would allow the Board to block or deny access in very limited and defined situations. **Mr. Johnston** said this change will also allow the Board to distribute unsolicited information to pharmacists and practitioners when the release of information may be of assistance in preventing or avoiding inappropriate use of controlled substances.

Mr. Johnston indicated this legislation further establishes a misdemeanor penalty for failing to safeguard login information. He advised that subsequent to the hearing on this bill in the House, he met with the Idaho Medical Association (IMA), who pointed out that a prescriber who is a victim of identity theft also could be guilty of a misdemeanor under the bill. Thus, **H 439's** current language does not meet the Board's intent. The Board is only concerned with willful misconduct and gross negligence. He suggested that Section 37-2726, subsection (7), of the bill be further amended by inserting the words "intentionally shares or recklessly" before the words "fails to safeguard his user account."

With the support of IMA, **Mr. Johnson** respectfully requested that H439 be sent to the 14th Order for amendment.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Senator Schmidt asked if he was seeing a patient for the first time as a practicing physician and had his nurse use the PMP to look up information on the patient, would that be seen as a violation under this bill? **Mr. Johnston** replied that the Board, by policy, allows practitioners to name one designated agent. The designated agent receives their own login and password ID and doesn't share the login information of the prescriber. He noted that PMP data is a small amount of data compared to that stored in the Health Data Exchange, and they will further evaluate the level of restriction to make sure it is appropriate.

TESTIMONY: **Dr. Russ Newcomb**, representing the Idaho Medical Association, said the Association **supports** sending **H 439** to the 14th order for amendment.

MOTION: **Senator Schmidt** moved, seconded by **Vice Chairman Broadsword** that the Committee send **H 439** to the 14th Order for amendment. The motion carried by **voice vote**.

H502aa: **Relating to Uniformed Controlled Substances.** **Mr. Johnston** advised that *Idaho Code*, Section 37-2714 mandates that the Board update their schedules of controlled substances annually. He indicated this proposed legislation accomplishes the statutory requirement to update the schedule. He stated that a review by the Legislative Services Office (LSO) found one grammatical error and four typos and suggested correcting the reference to federal law. The Board accepted those suggestions and also is requesting the removal of HCG from the controlled substance schedule. The Board found HCG has no potential for abuse. Lastly, he said, the wording of last year's spice synthetic, was intended to be used as inclusively as possible, since the manufacturer's change the structure of the chemicals. **H 502aa** was amended in the House to simplify the statute by removing the specific chemical structures/side chains currently listed and replacing them with the "to any extent" language. **Mr. Johnston** said that less specific wording would control several new, emerging synthetic substances that would come to the attention of ISP chemists. He requested **H 502aa** be sent to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

Senator Schmidt said he understood HCG was not a controlled substance, but he said it could be abused. **Mr. Johnston** said HCG was often used in conjunction with other steroids as part of the regime of therapy, but in itself, did not fit the definition of a controlled substance.

TESTIMONY: **David Sincerbeaux**, with the Idaho State Police Forensic Services Department, spoke **in support** of **H 502aa**.

Chairman Lodge asked if he is satisfied that this will cover new substances that are being abused. **Mr. Sincerbeaux** said this would cover some of the ones seen in the coming year, but they will probably have to come back next year as the substances are reformulated. **Chairman Lodge** thanked **Mr. Sincerbeaux** for coming to the hearing and for the work he does in this area.

MOTION: **Senator Schmidt** moved, **seconded** by **Vice Chairman Broadsword** that the Committee send **H 502aa** to the floor with a do pass recommendation. The motion carried by **voice vote**.

H 609: **Relating to Public Assistance Law.** **Representative Janice McGeachin**, District 32, advised this legislation restores cuts to Medicaid made in **H 260** during the 2011 Legislative Session. The services being restored relate to preventative dental services, duplicative skill training for individuals with mental health and developmental disabilities, and the removal of tiered individual budgets for adults. **Representative McGeachin** said for the most part the thinking and objectives of **H 260** have been successful; however, feedback from constituents and better economic times have brought about a desire to restore some of those reductions and **H 609** is a culmination of those efforts.

She indicated this legislation will provide participants on the aged and disabled waiver and the developmental disability waiver access to dental services that reflect evidence-based practice. She further advised that mental health providers may not provide training for skills included in the individual's developmental disability plan, but may provide services related to the individual's mental illness that requires the specialized expertise of mental health professionals, such as management of mental health symptoms, teaching coping skills related to mental health diagnosis, assisting with psychiatric medical appointments and educating individuals about their diagnosis and treatment. The final change is the removal of tiered individual budgets for adults.

Representative McGeachin indicated this is still a work in progress and a small restoration, but it helps to address the more egregious unintentional consequences of **H 260**. The fiscal impact is \$1.5 Million to the state General Fund.

Senator Nuxoll asked if this was just for adults. **Representative McGeachin** said this bill is for adult services.

Chairman Lodge stated children's benefits were not cut in **H 260**.

Vice Chairman Broadsword said she wanted to clarify that mental health and disability services were for those with a dual diagnosis. They were for people who had both a mental health illness and a developmental disability. She stated they currently must choose between mental health or disability services and under this bill they do not have to make that choice. She said by combining the suicide hotline and the dental benefits for the disabled, they had addressed the worse concerns that came out of **H 260**.

Senator Vick asked how much of the \$1.5 million was for dental and how much was for the other part. **Vice Chairman Broadsword** said it was \$653,000 for the dental benefits and about \$900,000 for the dual diagnosis. She said they were general fund dollars and they have a federal match at the 70/30 rate.

TESTIMONY:

Katherine Hansen, Executive Director, Community Partnerships of Idaho, which is part of the consortium for Idahoans with Disabilities, spoke **in support of H 609**, she explained that once a year they have a strategic planning session and one of the things that was on their minds was the impact of **H 260**. They discussed how they could, as a community, advocate on behalf of those that were most significantly impacted. She said they created a vision board and explained it to the Committee. **Ms. Hansen** thanked everyone for what they had done.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

TESTIMONY:

Kathie Garrett, who serves on the Board of Directors for NAMI (National Alliance on Mental Illness), Idaho and is Chair of Partners in Crisis, spoke **in support of H 609**. She thanked the Committee for its consideration of this bill and indicated it's passage would greatly benefit those approximately 600 individuals that were required by last year's legislation to make a choice that severely and negatively impacted their already challenging quality of life.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #4).

Chairman Lodge read the names of others in attendance who indicate **support for H 609**: **Bill Benkula**; **Paul Leary**; **Jim Baugh**; **Elizabeth Criner**, on behalf of the Idaho State Dental Association, and **Marilyn Sword**, on behalf of the Developmental Disability Council.

MOTION:

Vice Chairman Broadsword moved, **seconded** by **Senator Smyser**, that the Committee send **H 609** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Chairman Lodge** will sponsor the bill on the floor.

Chairman Lodge indicated she and **Vice Chairman Broadsword** had also drafted a similar bill before discovering the House was hearing this legislation, and she thanked **Vice Chairman Broadsword** for her work on this legislation. She noted **Vice Chairman Broadsword** would not be returning to the Senate next year and thanked her for all the dedication she has shown to the Health and Welfare Committee over the years.

ADJOURNMENT: **Chairman Lodge** adjourned the meeting at 4:10 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
3:00 P.M.
Room WW54
Thursday, March 15, 2012

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of the Minutes of the February 15, 2012 Meeting	Senators Heider and Bock
H 487	Relating to Mental Health Commitment - To Revise Provisions Regarding Responsibility for Costs of Commitment and Care of Patients	Toni Poinelli
H 632	Relating to Youth Athletes and Concussions	Matt Kaiserman

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge	Sen Vick
Vice Chairman Broadsword	Sen Nuxoll
Sen Darrington	Sen Bock
Sen Smyser	Sen Schmidt
Sen Heider	

COMMITTEE SECRETARY

Lois Bencken
Room: WW48
Phone: (208) 332-1319
email: lbencken@senate.idaho.gov

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, March 15, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 3:15 p.m.

MINUTES APPROVAL: **Senator Bock** moved, **seconded** by **Senator Heider**, that the minutes of the February 15, 2012 meeting be approved. The motion carried by **voice vote**.

H 487

Relating to Mental Health Commitment. **Tony Poinelli**, Deputy Director, Idaho Association of Counties, presented this bill relating to the mental health commitment process. He stated there is a period of time of four to five days or sometimes longer that the county has the responsibility for that individual. The purpose of this bill is to amend *Idaho Code*, Section 66-327, to specify that the reimbursement for services shall be either at the Medicaid Rate, contract rate, or for a freestanding facility the Medicaid rate of the closest hospital providing similar services. The bill also clarifies that costs are fixed from the time services are received and that an order of commitment shall be sufficient to require a release of all necessary information related to the person committed. There would be no impact on the state general fund. There would be a savings at the county level in those cases where a hospital would not accept the Medicaid Rate or approve a contract rate.

Senator Darrington said that Utah has been doing something similar to this for the past 30 years. **Mr. Poinelli** said that was correct. He said he believed that in Utah they do a lot of contracting. **Senator Darrington** noted that Idaho counties would have a visitor from Utah pass through and get in a wreck and they would require indigent care. He said we would end up paying the full rate as opposed to Utah paying at a discounted rate. **Mr. Poinelli** advised that one of the differences with the state of Utah compared to Idaho is that Utah has a Medicaid union program and the State of Idaho does not have this program. He said the positive thing about this piece of legislation is the ability to contract. This bill will resolve the problem of a facility not contracting and not accepting the Medicaid rate.

Senator Schmidt commented that this really isn't indigent care. **Mr. Poinelli** said that in a way it is, and the Supreme Court has ruled that the counties pay full customary cost.

Senator Schmidt asked **Mr. Poinelli** when the county's obligation starts. **Mr. Poinelli** said many times, when an individual is brought to a facility, usually law enforcement is involved or in many cases, protective custody holds, and after a day or two, a designated exam was usually ordered. Then, within a specific time, after the initial 24 or 48 hours, a second designated exam is ordered. Once there are two positive designated exams, that means that the individual could be committed to the state of Idaho. The prosecutor brings that before the court and the court makes the determination whether they should be committed or orders a 30 day abeyance for additional treatment.

Senator Schmidt asked if the initial evaluation when one is in custody would fall directly to the County. **Mr. Poinelli** said, yes, it would. He stated it is a county responsibility up to the point the court orders a commitment and 24 hours after that.

Vice Chairman Broadsword stated that once the commitment is made, it is the state's responsibility to pay the hospital bill. She indicated those hospital commitments can sometimes be up to a week or ten days before a bed is available. **Mr. Poinelli** said that is correct. He said when the court orders the commitment, if there are no beds available in a state facility, the state has the responsibility to pick up private facility costs. **Vice Chairman Broadsword** said this allows counties to have a fixed Medicaid rate and that would be a benefit.

TESTIMONY:

Representative Wendy Jaquet, District 25, said she was in the JFAC meeting when they were hearing the county's budget presentation and she asked whether the county had access to the same rates as the state did. They indicated no, and this prompted her to work with the counties to bring this legislation. She asked for the Committee's **support**.

Vice Chairman Broadsword asked if the hospitals or providers are upset they are going to get a lesser rate? **Representative Jaquet** said they have worked with the providers and they all seem to be on the same page.

MOTION:

Senator Broadsword moved, seconded by **Senator Nuxoll**, that the Committee send **H 487** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Vice Chairman Broadsword** will carry this bill on the floor.

H 632

Relating to Youth Athletes and Concussions. Matt Kaiserman, representing Gallatin Public Affairs and its client, the National Football League, advised he also works with a large Idaho coalition working to correct Idaho's need for this legislation. He related a personal experience with an undiagnosed concussion sustained during his high school days and with inadequate education and protocol in place related to concussions, he returned to play before he was ready to do so. He noted that when he suffered an additional concussion during college, he had the proper education and the appropriate protocol and sports structure with athletic trainers was in place to assist him and he was able to recover fully.

He indicated this bill was for youth athletes where the risk of catastrophic injury or death is significant when a concussion or head injury is not properly evaluated and managed. This legislation adds a new section to *Idaho Code*, Section 33-1625, which provides for coaches, referees, athletic trainers, parents, and youth athletes to receive information regarding the signs and symptoms of concussions and the risks associated with continued play after receiving a concussion. It also provides guidelines for middle schools, junior high schools and high schools to follow in developing a concussion protocol for removing young athletes from play who are suspected of sustaining a concussion by exhibiting outward signs or symptoms consistent with the injury. An athlete may not return to play until he or she has received written medical clearance from appropriate medical professionals trained in the evaluation and management of concussions.

Mr. Kaiserman said he had two concerns. 1) Those who suffer a concussion, but return to play when they are not completely ready, as a subsequent even minor impact can cause a rapid swelling of the brain; and 2) The liability is on Idaho and Idaho schools, administrators, coaches. etc. He said there is a duty of care that is already in place, established by the National Federation of High Schools by the Centers for Disease Control and Prevention (CDC). He reviewed the education materials from the State Board of Education and the Idaho High School Athletic Association and discussed liability issues of the schools. He noted that the legislation allows other community sports organizations to opt in for liability coverage under this legislation by putting into place the required protocol.

Mr. Kaiserman said that in summary, this would be a natural progression of athletic safety on a national level and it has been specifically tailored to Idaho's needs. This bill provides for needed protection for athletes, gives local control and it helps to protect our schools. This bill is not intended to change how the game is played in Idaho, but concussion is recognized as a serious injury. He asked for support from the Committee with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Chairman Lodge asked how this legislation would apply to the athlete who is a senior and has reached their 18th birthday. **Mr. Kaiserman** said that the intent is to protect those under 18, beyond that, technically, they are adults. He said even though someone is over 18, he thought the coaches would still take the recommended precautions.

Senator Schmidt noted the requirement for every school to develop a protocol and asked if there is a way to check whether the schools have the protocol in place.

Mr. Kaiserman said he would assume that whatever protocol would be developed, there would have to be a record. There are guidelines for the schools to develop that protocol.

Senator Darrington noted if a school fails to develop a protocol and watch the visual training and an injury occurs resulting in some debilitating effect, then the trial lawyers would come into play. Absent the protocol, absent the visual training, then the school is liable. There is a sanction by lack of immunity from liability, even though there isn't a stated criminal sanction within the legislation. He asked if that is correct. **Mr. Kaiserman** replied that if he understood **Senator Darrington** correctly, yes, that is right. Essentially what this bill does is to help make sure a school develops a protocol. Currently, if a school does not have a protocol or is not following it, then they will be liable. He said the real teeth behind this bill is the liability piece that will protect the schools.

Senator Bock related a personal situation where he received a concussion and was fortunate in that he had the kind of physician who was willing to say no, when he was willing to play at any cost. He said the parents need to be told kids can't play if a head injury occurs. He indicated this is a good bill and it should be passed.

Senator Darrington recalled a family incident where a child took a hit in football when he was a senior in high school, resulting in a cervical fusion. He was approached by a friend in Boise who had heard about it and said they had good grounds to sue the equipment manufacturer and the school but they didn't want to do that. He said this reminded him of the importance of this legislation.

Chairman Lodge noted her husband, who was an All American three times, was very concerned about the fact that one could be taken out of the game and not be able to return. She stated she appreciated the education provided by **Mr. Kaiserman**.

TESTIMONY: **Alan Crothers**, President, Idaho Physical Therapy Association, said they have had similar protocols in place for a couple of years. He is **in support** of this bill.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

MOTION: **Senator Bock** moved, seconded by **Senator Darrington**, that the Committee send **H 632** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Darrington** will sponsor the bill on the floor.

Senator Darrington noted that **Mr. Kaiserman** works as an intern with Gallatin Public Affairs where he worked closely with **McKinsey Miller**. He asked that the record indicate for purposes of conflict that his daughter, **Lyn Darrington**, is a partner with Gallatin Public Affairs.

Vice Chairman Broadsword commented that she had a young athlete in her district that was fatally injured in a football game this last year. She said she thought this legislation was good public policy and having those protocols in place would help keep future athletes from permanent damage.

ADJOURNMENT: Chairman Lodge noted that future meetings will be at the call of the Chair and adjourned the meeting at 3:50 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

Linda Kambeitz
Assistant Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
2:00 P.M.
Room WW54
Tuesday, March 20, 2012

NOTE TIME CHANGE

SUBJECT	DESCRIPTION	PRESENTER
Minutes Approval	Approval of the Minutes of the Meeting of February 16, 2012	Senators Vick and Schmidt
Minutes Approval	Approval of the Minutes of the Meeting of February 20, 2012	Senators Smyser and Bock
Minutes Approval	Approval of the Minutes of the Meeting of February 23, 2012	Senators Nuxoll and Schmidt
Minutes Approval	Approval of the Minutes of the Meeting of March 1, 2012	Senators Darrington and Bock
GUBERNATORIAL NOMINATION HEARING	Allan R. Schneider of Emmett, Idaho was appointed to the Commission for the Blind & Visually Impaired to serve a term commencing September 22, 2011 and expiring July 1, 2012.	Allan R. Schneider
<u>H 551</u>	Relating to the Coroner - To Revise Provisions Relating to the Burial or Cremation of Unclaimed Bodies	Representative Frank Henderson, District 5
<u>H 631</u>	Relating to Intermediate Care Facility Assessment - To Remove a Provision Relating to ICF Adjustment Payments and To Remove a Provision Relating to Medicaid Trustee and Benefit Expenditures	Kris Ellis

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge	Sen Vick
Vice Chairman Broadsword	Sen Nuxoll
Sen Darrington	Sen Bock
Sen Smyser	Sen Schmidt
Sen Heider	

COMMITTEE SECRETARY

Lois Bencken
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, March 20, 2012

TIME: 2:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

ABSENT/EXCUSED: None

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 2:03 p.m.

MINUTES APPROVAL: **Vice Chairman Broadsword** moved, seconded by **Senator Schmidt**, that the minutes of the February 16, 2012, meeting be approved. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Smyser** moved, seconded by **Senator Bock**, that the minutes of the February 20, 2012, meeting be approved. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Nuxoll** moved, seconded by **Senator Schmidt**, that the minutes of the February 23, 2012, meeting be approved. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Bock** moved, seconded by **Senator Darrington**, that the minutes of the March 1, 2012, meeting be approved. The motion carried by **voice vote**.

GUBERNATORIAL NOMINATION HEARING: **Allan R. Schneider** of Emmett, Idaho was appointed to the Commission for the Blind and Visually Impaired to serve a term commencing September 22, 2011 and expiring July 1, 2012. **Mr. Schneider** provided the Committee with a brief biography of his personal and professional life, stating that he was born and raised in South Dakota and had been an English teacher for 33 years, the last 20 had been in Emmett, Idaho. He said a couple of years ago, he decided to retire from teaching and he began taking classes with the Commission for the Blind and Visually Impaired. He indicated he is looking forward to giving back by serving on the Board.

Chairman Lodge asked **Mr. Schneider** how he thought he could help the Board. **Mr. Schneider** said he felt that having gone through the classes offered by the Commission he understands that aspect and has started a support group for visually impaired in Emmett and in that effort spent a little bit of time with the Commission's independent living section. He feels his experience will be a benefit to the Commission.

Senator Schmidt said he appreciated **Mr. Schneider's** willingness to serve and asked if it would be a problem for him to commute from Emmett to Boise for Board meetings. **Mr. Schneider** advised that a good friend works in Boise and offers him a ride.

Senator Darrington noted **Mr. Schneider** has an interesting resume with a long teaching career, but along the edges of that has done a thousand things of interest in the community and schools. He said he didn't see anything on the resume that said he was a member of the National Federation of the Blind. **Mr. Schneider** said he was just joining the Federation. **Senator Darrington** said he was not necessarily recommending membership. He stated the reason he asked is because he wanted **Mr. Schneider** to certify to the Committee that he can be

independent and find a balance between sometimes opposing groups of the blind in their efforts to steer the direction of the Commission. **Mr. Schneider** said that in one of his classes they talked about being involved and that the blind is the best advocate for the blind. He said that sometimes the groups had different sets of ideas and values and he would be joining both the National Federation and the American Council for the Blind, but he did not see himself being swayed by either group. **Senator Darrington** thanked him for his comments and said he wanted the record to indicate that he will be an independent member away from other influences when decisions have to be made.

Vice Chairman Broadsword told **Mr. Schneider** she was not familiar with Project Starfish, and asked that he briefly explain. **Mr. Schneider** said that several years ago, there was a group started in Emmett aimed at helping the kids and the reason it is called Project Starfish relates to the story of the man on the beach throwing Starfish back into the ocean to make a difference. Project Starfish reaches out to help kids with whatever project it can. He indicated just reaching out and greeting a child and asking how everything is going makes a difference.

Senator Smyser said she wanted to extend her thanks that **Mr. Schneider** is willing to serve on the Board and she said she thought his talents as an educator would be put to good use by the Commission. She said she felt they would benefit from all of his talents and she looked forward to that.

Chairman Lodge thanked **Mr. Schneider** for being there and for taking the responsibility and added that he would be a great addition to the Board. She said the Committee will vote on his confirmation at the next meeting. She thanked **Lieutenant Governor Brad Little** for being there to support **Mr. Schneider**.

H 551

Relating to the Coroner. Representative Frank Henderson, District 5, stated the purpose of this bill is to amend *Idaho Code*, to revise provisions relating to burial or cremation of unclaimed bodies. He said this bill would correct a clumsy administrative issue that had been faced by County Commissioners. The present statute does not specifically give the County Commission the authority to order the burial or disposition of a body. He stated **H 551** corrects that problem and goes a step further to provide the authority to the Coroner to make the decision to bury or cremate an unclaimed body. He advised that the present statute also does not authorize cremation of a body. He advised the burial of a body is about five time more expensive than cremation.

TESTIMONY:

Ken Mallea, attorney, representing Funeral Directors of Idaho and their Association, spoke **in support of H 551**. He said they were involved in the preparation of this bill, along with the Coroner's Association and the Idaho Association of Counties. His clients are the ones literally holding the body, on orders from the Coroner, in the event the family cannot be found or if the family will not claim the deceased. He said this bill will give the coroner of each county the authority to make the necessary decision.

Senator Darrington asked **Mr. Mallea** if the remains of those cremated are generally interred in a cemetery. He also asked if when remains are buried, is there some kind of a simple marker placed at the site. He said he felt this is extremely important, as there is always someone who wants to know something with regard to their family history, even though they may have disowned the person. He stated, the cemeteries are frequently some of the best sources of information.

Mr. Mallea said in the case of cremation, there is no formal or informal method of marking anything. Those cremated remains are usually prepared at the funeral

home and then they are boxed. If no one comes to claim the remains, the funeral directors do, as a matter of practice bury those periodically. There was no specific name recognition that he knew of that is attributed to that person. When a body is buried in any cemetery, there is some form of marker that is placed there primarily so the cemetery knows there is a body there. He said funeral directors would prefer to have a burial in these cases, but the County budgets do not have the funds to do that.

Senator Nuxoll asked if there was a certain class of people or the poor who didn't want to claim the bodies. **Mr. Mallea** said those people in the indigent category are at the low end of the economic strata. There were other cases where the deceased has assets and for one reason or another, the family does not want to have anything to do with them. The funeral homes could identify them, but the family would not come forward for them. He said they have cases where friends or the church have offered to and were willing to pay for cremation and no one from the family would sign for the body. He reiterated it was not always a case of financial necessity.

Vice Chairman Broadsword asked how the 14-day time period was reached and whether two weeks is long enough. **Mr. Mallea** said the coroners and their Association felt the 14 days was sufficient. He explained that if no family comes forward or they find the family and they want nothing to do with the body, at that point, the funeral home can apply to the county for signature by the coroner. The bill does not specify after that how soon the coroner must act. He said coroners do a thorough search in these instances by utilizing their office and law enforcement. Fourteen days was the period that must elapse, but there was no specific time for the coroner to discharge his or her duty.

Vice Chairman Broadsword said her concern was if someone had to go out of the country for a month and there might be instances where there could be family who would claim the body, had they not been out of the country. **Mr. Mallea** agreed with **Vice Chairman Broadsword**, but said the people who have to deal with this, namely the Idaho State Association of County Coroners and the Idaho Funeral Directors, came up with the 14 days as appropriate.

TESTIMONY:

John Buck, President, Idaho State Association of County Coroners, spoke in support of H 551.

Representative Henderson stated he wanted to assure everyone the County Recorder's Office records every death and the disposition of the remains. The date of death and the disposition of the remains would be part of a permanent record kept in each county. If funeral homes have an unclaimed body that was known to be a veteran, the urn with the ashes would be sent to the closest veteran's cemetery. The other urns are kept and the body identified on the urn which is kept for some period of time by the funeral home.

Senator Nuxoll asked if the family did not claim the body, were they trying to get out of the expense. **Representative Henderson** said that was probably correct and some people might respond in that way. He said this bill is intended to make the best possible solution of that kind of problem.

MOTION:

Senator Heider moved, seconded by **Senator Vick**, that the Committee send H 551 to the floor with a do pass recommendation. The motion carried by voice vote. **Senator Smyser** will carry this bill on the floor.

H 631

Relating to Intermediate Care Facility Assessment. **Kris Ellis**, representing Idaho Health Care Association, advised that the purpose of this legislation is to

continue the Intermediate Care Facility Assessment Act. The monies generated from the assessment will be used to primarily increase the payments to Intermediate Care Facilities, in order to offset the cuts to the facilities. She indicated that in Idaho there are three assessments which were for hospitals, nursing homes and intermediate care facilities. This legislation brings the intermediate care facilities assessments in line with the hospital and nursing home assessments. **Ms. Ellis** explained to the Committee that the assessment is a system whereby the providers pay the assessment and the funds are then federally matched to an upper payment limit and that money is distributed back to the state. She stated that last year under **H 260**, because of the significant budget shortfall, a portion of that money was sent to the Department of Health and Welfare to be used for trustee and benefits.

She advised that this bill takes off the sunset that was part of **H 260** and reviewed the specific changes. She stated this will revert back to the original intent of all of the assessments, which was simply to use another method during the budget cuts to help with that situation for the providers.

Senator Vick noted a reference to Sections 22 and 23 of the act, which are not a part of this legislation and asked where they could be found. **Ms. Ellis** answered that those sections are in **H 260**; Section 22 was the repeal of the Trustee and Benefits for the nursing homes and Section 23 was for the hospital.

Senator Heider asked **Ms. Ellis** to define "idle monies." **Ms. Ellis** explained that the funds come via the assessment from an intermediate care facility, and go into the same fund as the hospital and nursing home assessments. The monies stay in the fund for a while before it is actually matched with federal dollars and then it is paid out. This fund can amount to a significant amount of money; for the hospitals last year the assessment was \$25 Million and for the nursing homes it was \$13.5 Million. The intent is to allow the State Treasurer to invest those funds sitting in the account.

TESTIMONY:

Tom Whitemore, owner of CommuniCare Inc., spoke **in support of H 631**. He stated his company serves people with intellectual disabilities (ID) who need Intermediate Care Facility (ICF) care in the state and he said he has been in business since 1980. He provided a fact sheet related to the operation of his business and indicated the ICF-ID provider assessment was vital, as it had restored their rates to include funds removed from the rate-setting process through recent years of rate freezes and reductions due to changes in reimbursement methodology by the state.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

MOTION:

Senator Bock moved, seconded by **Vice Chairman Broadsword**, that the Committee send **H 631** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Vice Chairman Broadsword** will carry this bill on the floor.

ADJOURNMENT:

Chairman Lodge thanked the Committee for all of their hard work, indicated they would have one more meeting and adjourned the meeting at 2:47 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

AGENDA
SENATE HEALTH & WELFARE COMMITTEE
2:00 P.M.
Room WW54
Thursday, March 22, 2012

PLEASE NOTE MEETING TIME CHANGE

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL NOMINATION VOTE	Allan R. Schneider of Emmett, ID was appointed to the Commission for the Blind & Visually Impaired to serve a term commencing September 22, 2011 and expiring July 1, 2012	
H 486, aa,aa	Relating to Minors - To Prohibit the Use of a Tanning Device or Ultraviolet Tanning Device on Minors Fifteen Years of Age or Younger, To Prohibit the Use of a Tanning Device or Ultraviolet Tanning Device on Minors Between the Ages of Sixteen and Eighteen, To Provide for Exceptions and Parental Consent	Representative John Rusche, District 7
Presentation	Page Recognition	Chairman Lodge

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lodge
Vice Chairman Broadsword
Sen Darrington
Sen Smyser
Sen Heider

Sen Vick
Sen Nuxoll
Sen Bock
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken
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MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, March 22, 2012

TIME: 2:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman Lodge** called the meeting to order at 2:05 p.m., noting that the Committee had moved to Room WW55 due to the Commerce and Human Resource Committee running late in Room WW54.

MINUTE APPROVAL **Vice Chairman Broadsword** moved, seconded by **Senator Nuxoll**, that the minutes of the meeting of March 7, 2012, be approved. The motion carried by **voice vote**.

MINUTE APPROVAL **Senator Heider** moved, seconded by **Senator Nuxoll**, that the minutes of the meeting of February 27, 2012, be approved. The motion carried by **voice vote**.
Chairman Lodge stated she would rearrange the agenda to accommodate Committee members who are also attending the Commerce and Human Resources meeting. She also asked that guests wishing to present testimony on **H 486,aa,aa** limit their testimony to two minutes or less.

H 486,aa,aa **Relating to Minors. Representative John Rusche**, District 7, advised that the purpose of this bill is to protect children from a significant source of cancer causing radiation. It makes it a misdemeanor for a child 15 years or younger to use a UV tanning bed; between 16 and 18 years parental consent is required. Cancer caused by this exposure can be prevented. At present, approximately 60 Idahoans die each year from melanoma, the most deadly form of skin cancer. He advised melanoma incidence is growing most rapidly in young women. The reason for this increase is an increase in UV exposure. He stated that there are other factors besides tanning beds, including non-tanning UV exposure from being outside, genetics, as well as high altitude where you have less atmospheric blockage of UV radiation. He noted that we can't control the sun, the elevation, or a person's genetics, but we can control the cancer causing damage from tanning beds. He advised that doctors are supporting this legislation and it fits within the traditional role of adults: protecting children from lifelong damage that occurs from bad decisions they make in their minority. This bill in no way limits choices of adults, but it does offer a significant protection to youth. **Representative Rusche** introduced **Blake Sampson** who he described as the driving force behind this bill.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

Mr. Sampson stated he became interested in this cause because of his wife, who tanned many times during high school and at the age of 22 developed precancerous moles and will live with the risk of developing melanoma throughout her life. He advised that Idaho has the number one melanoma death rate in the nation. He stated surveys show that teens in Idaho tan at a rate much higher than the national average, noting that statistics show that 22 percent of 14 year old girls tan

compared to 8.5 percent nationally. He advised that Idaho is one of only a few states without any legislation in this area. We protect our kids from other dangerous addictive cancerous causing substances. He stated parents need this to help them enforce their wishes that their children do not use tanning beds. He noted that a recent study published by Congress found that 90 percent of salons nationwide are telling a 15 year old girl in the study that there are no health risks whatsoever, and 50 percent of salons are saying there is absolutely no link to skin cancer. He advised that this legislation provides an exemption for medical reasons with a prescription from a physician.

Vice Chairman Broadsword asked if the 22 percent of Idaho girls tanning all go to tanning beds, and where these statistics come from. **Mr. Sampson** responded this includes only girls using indoor UV tanning devices, and the statistics are from the 2009 Idaho Youth Assessment Risk Survey conducted by the Health and Welfare Department, also known as Kids Count.

Vice Chairman Broadsword asked **Representative Rusche** what science was used to determine whether the melanoma he referred to in his remarks was caused by the tanning bed or the sun. **Representative Rusche** indicated he feels it is not possible to tell, but it is possible to eliminate a significant source that adds to the cancer cases in Idaho. He stated he would like to defer that question for further comment to specialists who are planning to testify.

Senator Bock asked if there is any study regarding the effect this type of legislation would have on teenagers tanning behavior, i.e., would they return to tanning in the sun. **Representative Rusche** advised that there will be testimony on the specific danger to children from excessive UV radiation and they will also explain why tanning bed UV radiation is of particular concern.

Senator Darrington noted that opponents have said other states do not have this kind of legislation and testimony here indicates that other states do have this legislation. He asked if the provisions are the same and are there other states with this legislation. Additionally he asked if doctors write prescriptions to other than pharmacies, i.e., to health clubs, tanning salons, cosmetologists, etc. **Representative Rusche** responded that physicians do write prescriptions for medically necessary services such as walkers, oxygen, etc. He further advised there are several states that have parental consent regulations, one state has a blanket restriction on minors using tanning beds, and 10 or 12 states are considering similar legislation.

Senator Smyser asked **Representative Rusche** what type of prevention education the Dermatology Society is doing in Idaho to alert young people. **Representative Rusche** asked to defer the question to other specialists who will testify. **Senator Smyser** also commented on the Kids Count Survey which is done in the schools to assess behavioral risks. She stated this is a small sampling that would not support the statistics quoted here. **Representative Rusche** advised that when a sampling is done they take a large enough sample to represent the group as a whole and the statistics quoted are valid.

Chairman Lodge commented that it was her understanding that a prescription by definition goes to a licensed pharmacy and asked if that is correct. **Representative Rusche** advised that a prescription is a formulation for medically necessary treatment and the statement that prescriptions can only be filled in a pharmacy is not correct. **Chairman Lodge** asked what the difference is between a prescription and doctor's orders. **Representative Rusche** stated, "nothing"; the prescription pad

is used to write out instructions whether it is for a pharmaceutical or not. **Chairman Lodge** further asked what would keep someone from writing what might look like a prescription and taking it to a tanning facility and how would that prescription be enforced by a tanning facility that is not a licensed pharmacy or medical provider. **Representative Rusche** stated he had not thought about anyone falsifying a prescription with a physician's signature for the purpose of obtaining tanning.

Senator Heider stated he is confused about why a person who is 15 cannot use a tanning bed and why a 16 to 18 year old can go with parental permission. **Representative Rusche** indicated that was an agreement reached in the House; originally the bill contained a prohibition under age 18.

TESTIMONY: **Kristi Christensen** spoke in support of H 486,aa,aa. She stated as a past health educator in the public school system she made a point to teach her teens about the danger of UV tanning beds. She often heard the argument that it can't be that bad or it would be illegal.

Vice Chairman Broadsword asked if she also cautioned about prolonged exposure to the sun and the need to use sunscreen. **Ms. Christensen** responded, "yes."

TESTIMONY: **Steven Mings, M.D.**, representing a variety of physician groups, including Idaho Dermatology Society, American Academy of Dermatology, the Boise Valley Dermatology Society, and Idaho Medical Association spoke in support of H 486,aa,aa. He stated he is on the front lines against skin cancer in his practice and the science is strong to support this bill. He stated there has been a concentrated education effort among his colleagues about the danger of UV radiation. He stated we have an obligation to protect children. He discussed the difference between melanoma and all other skin cancers and advised that it is risk factors that need to be looked at. He advised that Melanoma strikes young people and if we can influence behavior in childhood we may be able to decrease the risk of this deadly disease.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

Senator Bock asked if there is a tendency for the basal cell cancer to evolve into melanoma or is it totally different. **Dr. Mings** advised that they come from completely separate cell lines and are not interchangeable.

Senator Smyser asked about predisposed genes that we know of that are risk factors in this type of cancer. **Dr. Mings** advised that family history is certainly a risk factor.

Senator Vick asked what the health risks of spray on tanning are. **Dr. Mings** indicated he did not know the answer to that question, but knows of no link to skin cancer.

Vice Chairman Broadsword asked why there is not legislation at the federal level to address this. **Dr. Rusche** stated that this is not within the scope of federal regulation; it is intrastate commerce rather than interstate commerce. However, the Food and Drug Administration does have regulation over the appliances.

TESTIMONY: **Joseph Levy**, Executive Director, International Smart Tan Educational Institute, spoke in opposition to H 486,aa,aa. He stated his organization supports constructive regulation of this market and he has worked with and trained regulatory agencies for decades. He indicated this bill will not accomplish what its proponents hope, in fact it accomplishes the exact opposite. He cited statistics that report

melanoma is more common in people who work indoors than in people who work outdoors. It is more common on parts of the body that do not receive regular sun exposure and it is much more common in men than it is in women. He stated that according to the National Cancer Institute melanoma rate for young women under the age of 20 is 0.5, that is 5 in 1 Million. He stated that if this bill is enacted three out of four teenagers will use sunbeds at home and will use them in unmonitored settings or will tan more aggressively outdoors. He stated that exposure schedules in salons regulate exposure to a non-burning experience based on an individual skin type.

Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

Senator Smyser noted that one of the statements made by the proponents of this legislation are that tanning salons are giving false information to teenagers and asked what **Mr. Levy's** viewpoint is on this. He indicated the Congressional report noted in previous testimony does not exist. There is a minority report done by one Congressman's office that did not represent the committee action.

Senator Schmidt asked **Mr. Levy** who he represents and who he works for. **Mr. Levy** indicated he represents the International Smart Tan Network, the educational institute that trains tanning facility operators how to do their jobs correctly, and he works for the state regulators to develop programs to train the regulators as well. **Senator Schmidt** noted that he said in Colorado there is self regulation about who can use tanning facilities, and asked him to describe what those regulations are. **Mr. Levy** indicated that Colorado does not have a state standard to supplement the federal standards that regulate the market on parental consent, but salons are doing that anyway because salons can see that it is wise to have the parent know that a minor is tanning in a salon. **Senator Schmidt** asked if he is saying that some salons may choose to ask for parental consent. **Mr. Levy** responded that 92 percent of salons in the study were doing that already without any standard in place. **Senator Schmidt** asked if we are self regulating, how are we affecting the market. **Mr. Levy** indicated his issue with this bill is the misinformation which has been delivered.

TESTIMONY: **Heidi Low**, Medical Director of Governmental Relations, American Cancer Society, Cancer Action Network, spoke **in support** of **H 486,aa,aa**. She cited a study conducted by the National Cancer Institute involving 15 year old fair skinned females who had never tanned, where 71 percent of facilities said they would let a teen tan all 7 days the first week and many promoted frequent tanning. She stated this bill is a step in the right direction.

TESTIMONY: **Tom Patterson, M.D.**, representing the American Academy of Pediatrics, spoke **in support** of **H 486,aa,aa**. He stated he educates mothers on the benefits of sunscreen and avoiding midday sun exposure. He urged the Committee to look out for the children.

TESTIMONY: **Susie Pouliot**, representing the Idaho Medical Association (IMA), spoke emphasizing the IMA's **support** for **H 486,aa,aa**.

TESTIMONY: **Lisa Bulow**, a member of the Idaho Sol Survivors and a melanoma survivor, spoke **in support** of **H 486,aa,aa**. Stated that she took her daughter to tan with her and does not believe that parental consent alone is enough. She emphasized education is needed.

TESTIMONY: **Sharee Skinner**, owner of Southern Exposure, a tanning center in Nampa, spoke **in opposition** to **H 486,aa,aa**. She indicated tanning salons are already running like they are regulated and does not want to see Idaho take a step back to the time when tanning was done with baby oil in the sun. She stated that moderate use of tanning beds is beneficial in many ways.

Senator Schmidt asked **Ms. Skinner** to describe how much this legislation will hurt her business. She responded that under 16 years of age is about 5 percent of her business and under 18 more like 20 percent of her business.

Vice Chairman Broadsword asked why she would be opposed to having other salons get parental permission for those under 18 if she is already doing that herself. **Ms. Skinner** responded that they are already doing it and she would hope that can spread so that everyone is asking for the same thing. **Vice Chairman Broadsword** indicated she has been advised that the FDA already requires a sign on tanning beds warning about the risk of cancer and asked her to compare what is required now to what is required by this legislation. **Ms. Skinner** indicated the present signage indicates UV radiation may cause skin cancer and the proposed signage states that UV radiation from tanning devices is known to cause cancer in humans.

TESTIMONY: **Patty Moran** spoke in support of **H 486,aa,aa**. She cited statistics from 2001 to 2010 there were 85 young people ages 15 to 19 who lost their lives to melanoma skin cancer.

TESTIMONY: **Erik Makrush**, representing the Idaho Freedom Foundation, spoke in opposition to **H 486,aa,aa**, stated this bill does put a new regulatory restriction on tanning businesses related to signage and advertising.

Senator Schmidt asked how this bill restricts parent's rights and if he thinks we should repeal the tattoo statute. **Mr. Makrush** noted that anyone under the age of 15 years would not be able to tan even if the parent wanted them to. He indicated the Idaho Freedom Foundation opposes anything that restricts industry, specifically when there is not much study or if it is an individual right.

Vice Chairman Broadsword commented that **Mr. Makrush** stood before this Committee a couple of years ago and said the Idaho Freedom Foundation did not take positions, she asked if they have changed that and are now taking positions on legislation. **Mr. Makrush** stated that because of that interaction a few years ago, they have realigned their organization to be able to take a position.

Senator Bock asked if drinking and driving an individual right. **Mr. Makrush** responded that drinking and driving affects other people, whereas this only affects the individual.

Chairman Lodge asked that **Pam Eaton** with Idaho Retailers Association come to the podium for a question from **Vice Chairman Broadsword**. **Vice Chairman Broadsword** noted that **Ms. Eaton** had appeared before the Committee before and talked about sign restrictions on business and how much that costs individual businesses. She asked if **Ms. Eaton** had looked at this legislation and, if so, is there something more restrictive in here than what businesses are already doing and what she anticipates the cost to business will be. **Ms. Eaton** indicated that she has looked at this piece of legislation and with the amendment, it almost became worse on the retail level. She stated that the signage that is required is a huge issue.

Representative Rusche stated this issue is about kids in tanning beds, it will lower cancer risk and deaths and he asked for the Committee's support.

MOTION: **Senator Bock** moved, seconded by **Senator Schmidt**, that the Committee send **H 486,aa,aa** to the floor with a do pass recommendation. **Senator Bock** requested a roll call vote.

SUBSTITUTE MOTION: **Senator Smyser** made a substitute motion, seconded by **Senator Nuxoll**, that the Committee hold **H 486,aa,aa**. **Senator Bock** requested a roll call vote.

DISCUSSION: **Senator Smyser** commented that as the mother of a 15 year old and other children she feels it is important that the role of the adult and parent is education and prevention.

VOTE: **Chairman Lodge** called for a roll call vote on the substitute motion to hold **H 486,aa,aa** in Committee. The result of the vote was: **Senator Schmidt**, Nay; **Senator Bock**, Nay; **Senator Nuxoll**, Aye; **Senator Vick**, Aye; **Senator Heider**, Aye; **Senator Smyser**, Aye; **Senator Darrington**, Absent/Excused; **Vice Chairman Broadsword**, Nay; **Chairman Lodge**, Aye. The motion **passed** with 5 Ayes, 3 Nays, and 1 Absent/Excused.

GUBERNATORIAL NOMINATION VOTE **Allan R. Schneider** of Emmett, Idaho, was appointed to the Commission for the Blind & Visually Impaired to serve a term commencing September 22, 2011 and expiring July 1, 2012. **Senator Smyser** moved, seconded by **Senator Heider**, that the Committee send the gubernatorial appointment of **Allan R. Schneider** to the Commission for the Blind & Visually Impaired to the floor with the recommendation that it be confirmed by the Senate. The motion carried by **voice vote**.

PAGE RECOGNITION **Chairman Lodge** recognized pages, **Karl Lundgren** and **Kyle Son**, as two fine young men who have been spectacular support for the Committee. She asked that they each tell the Committee about their future plans.

Mr. Lundgren advised that his plans are to attend BYU in the fall on an Air Force ROTC scholarship and pursue a degree in engineering.

Mr. Son advised that his plans are to attend Idaho State University in the fall and pursue an MBA.

Chairman Lodge presented both pages with a framed letter of thanks which was signed by all Committee Members, and each received a set of cuff links reflecting the Idaho Seal. She thanked them both for their service to the Committee.

ADJOURN: **Chairman Lodge** announced that this would probably be the last Committee meeting for the year and thanked everyone for their hard work. She stated the year has been a wonderful experience for her and wished everyone the best.

Senator Smyser expressed how much she has appreciated working under **Chairman Lodge** as she is fair and forthright with all the people who come before the Committee and is an amazing leader.

The meeting was adjourned at 3:20 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary